United Nations CRPD/C/EU/Q/1

Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

List of issues in relation to the initial report of the European Union*

A. Purpose and general obligations (arts. 1–4)

General obligations (art. 4)

1. Please provide the intended timescale for ratification by the European Union of the Optional Protocol to the Convention.

2. Please indicate what steps the European Union is taking to develop a strategy on the implementation of the Convention within the European Union, including in all its institutions.

3. Please indicate what practical initiatives the European Union is taking to ensure the understanding and use of the human rights-based approach to disability at all levels of European Union policymaking and implementation within the European Parliament, the European Commission, the Council of the European Union, the Court of Justice of the European Union, and European Union agencies and consultative bodies.

4. Please clarify whether there are any plans to incorporate references to the barriers persons with disabilities face into the definition of "activity limitation" used in the European Union Statistics on Income and Living Conditions (CRPD/C/EU/1, para. 16).

5. Please explain whether the denial of reasonable accommodation for persons with disabilities constitutes a prohibited act of discrimination under European Union legislation outside the scope of employment, in all areas of participation.

6. Please indicate what practical initiatives the European Union is taking or planning to take to ensure that all new and existing legislation, regulations and policies are systematically harmonized with the Convention. How is the Impact Assessment Board obliged to ensure compliance with the Convention in its opinions?

7. Please explain how the European Union ensures and financially supports the close and independent consultation and active involvement of representative organizations of persons with disabilities in developing and implementing all European Union decision-making processes.

* Adopted by the pre-sessional working group at its third session (20–24 April 2015).

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

8. Please provide follow-up information on the outcome of the several infringement procedures against member States for the incorrect implementation of Council Directive 2000/78/EC referred to in paragraph 38 of the initial report.

9. Please provide the intended timescale for the adoption by the Council of the additional equal treatment directive to extend the existing European Union anti-discrimination legal framework to areas outside the field of employment, referred to in paragraph 40 of the initial report.

Women with disabilities (art. 6)

10. Please indicate what measures have been taken to carry out recommendations to tackle intersectional discrimination on the grounds of gender and disability covering education, employment, poverty, health, violence, forced sterilization and access to justice (ibid., para. 180).

Children with disabilities (art. 7)

11. Please indicate what measures have been taken to tackle challenges in the practical implementation of legal provisions resulting in obstacles faced by children with disabilities in their day-to-day life (ibid., para. 195).

Awareness-raising (art. 8)

12. Please indicate what practical and systematic awareness-raising and training initiatives the European Union has taken since its ratification of the Convention to ensure that the Convention is known and used at all European Union levels and within all institutions and agencies, including the European Economic and Social Committee and Committee of the Regions.

Accessibility (art. 9)

13. Please indicate what monitoring mechanisms are in place to ensure the implementation of accessibility requirements for goods and services (ibid., para. 47), public procurement procedures (ibid., para. 48), public transport (ibid., para. 53) and information and communication (ibid., paras. 55–60). Please provide information on the application of sanctions against those who fail to ensure accessibility in the above-mentioned areas.

14. Please provide the intended timescale for adoption by the European Union of a European accessibility act, referred to in paragraph 51 of the initial report. How is the European Union actively involving the representative organizations of persons with disabilities in this regard?

Situations of risk and humanitarian emergencies (art. 11)

15. Please explain how the Directorate-General for Humanitarian Aid and Civil Protection ensures that humanitarian aid and relief from the European Union are inclusive of and accessible to all persons with disabilities. In particular, please provide information on refugees with disabilities in the European Union.

16. Please indicate what measures have been taken to make the Europe-wide emergency single call number (112) accessible to all persons with disabilities, especially those who are deaf or hard of hearing.

17. Please clarify whether there are protocols in place for the protection of all persons with disabilities, including those with communication difficulties, in the event of a natural disaster or in other situations of risk or humanitarian emergencies. If so, to what extent have persons with disabilities and their representative organizations been actively participating in all steps and procedures of those protocols?

Access to justice (art. 13)

18. Please explain how the European Union will ensure the implementation of European Union legislation on access to justice in compliance with the Convention, and that the mandates, rules, procedures and practices of the European Court of Justice, the European Union Agency for Fundamental Rights and the European Ombudsman are in line with the Convention.

Freedom from exploitation, violence and abuse (art. 16)

19. Please indicate what monitoring mechanisms are in place to ensure the implementation of the directives referred to in paragraph 84 of the initial report. Please provide information on how women and girls with disabilities are included in European Union programmes and legislation on violence against women.

Protecting the integrity of the person (art. 17)

20. The study entitled "Discrimination generated by the intersection of gender and disability" (Directorate-General for Internal Policies, 2013) recommended a legislative proposal to ban forced sterilization. Has this recommendation been followed up by the European Union?

Liberty of movement and nationality (art. 18)

21. Please explain what measures the European Union can take to ensure, for nationals of a European Union member State who are persons with disabilities, equal opportunities, and equal access to and effective enjoyment of all rights, after they have moved to another member State. What measures is the European Union taking in particular to ensure that persons with disabilities can transfer their social protection, disability and personal assistance benefits to another member State in order to exercise their freedom of movement?

Living independently and being included in the community (art. 19)

22. Please explain how European funding, especially the European Structural and Investment Funds, is used to ensure, protect and promote the inclusion of persons with disabilities in their local communities. How are representative organizations of persons with disabilities involved in the policymaking for, and the implementation, monitoring and evaluation of, that funding?

23. In 2012, the European Union Agency for Fundamental Rights published a report on the right to independent living. Please indicate what measures were taken to carry out, as recommended in the report, deinstitutionalization efforts and reforms in the areas of education, health care, employment, culture and support services (ibid., para. 106).

Personal mobility (art. 20)

24. Please indicate what practical initiatives the European Union is taking to secure spontaneous and independent travel for persons with disabilities, as well as assistance and accompanying persons free of charge, at the local, regional, national and international levels.

25. Please explain how the European Union is systematically monitoring and following up on the implementation of all directives and regulations on air, rail, bus and coach passengers, and on sea and inland waterways, by member States and operators?

Freedom of expression and opinion, and access to information (art. 21)

26. Please indicate what the current legal status of Braille and sign language is in the European Union and its member States.

Education (art. 24)

27. Please indicate what practical initiatives the European Union has taken to ensure that the funding instruments and actions of member States aimed at fulfilling the education targets within the Europe 2020 strategy promote inclusive quality education. In what way are representative organizations of persons with disabilities involved in the monitoring at the European Union and member State levels?

28. Please clarify whether there are disability-specific indicators in the Europe 2020 strategy for the target on education.

Health (art. 25)

29. Please explain how the European Union can prevent disability-based discrimination in health-care service provision and ensure the training of health-care professionals on the human rights of persons with disabilities, in the light of its shared competences with the European Union member States in the field of health care.

Habilitation and rehabilitation (art. 26)

30. Please explain what measures the European Union can take to ensure equal access to habilitation and rehabilitation services for nationals of a European Union member State who are persons with disabilities, after they have moved to another member State.

Work and employment (art. 27)

31. Please provide precise data on the amount of money invested in wage subsidies for workers with disabilities employed in the open labour market; in workplace adaptations in the open labour market; and in the hiring of workplace assistants for workers with disabilities employed in the open labour market.

32. Please indicate what practical steps the European Union has taken to ensure that persons with disabilities are prioritized in all European Union policymaking and policy implementation in respect of employment, such as the Europe 2020 strategy and the European Union funding instruments, and that the effect is measured in a comparative way across the European Union member States.

Adequate standard of living and social protection (art. 28)

33. Please provide data on the effects that the international financial crisis and the austerity measures taken have had on the daily life of persons with disabilities in European Union member States.

34. Please provide information on programmes aimed at reducing poverty among persons with disabilities, especially women, girls and boys with disabilities.

Participation in political and public life (art. 29)

35. Please indicate what measures the European Union takes to ensure that all European Union citizens with disabilities enjoy the equal right to vote in and stand for elections at the European parliamentary level.

Participation in cultural life, recreation, leisure and sport (art. 30)

36. Please provide the intended timescale for accession by the European Union to the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which facilitates access to published material for blind persons, persons with visual impairments and persons with other difficulties in having access to printed materials; please also provide information on measures to ensure the effective implementation of the Treaty.

C. Specific obligations

Statistics and data collection (art. 31)

37. Please indicate what steps the European Union and its competent institutions, including Eurostat (such as in the European Union Statistics on Income and Living Conditions), are taking to implement the Convention and its human rights-based approach to disability in the collection of data in all areas of life.

International cooperation (art. 32)

38. Please explain how the European Union ensures that all European Union international cooperation policies and programmes, including in the areas of development, humanitarian assistance and disaster risk reduction, are inclusive of and accessible to all persons with disabilities.

Implementation and monitoring (art. 33)

39. Please explain how the current European Union monitoring framework is considered an independent monitoring mechanism in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), in particular in terms of its criteria for independence and allocation of sufficient financial and human resources.

40. Please provide information on the extent to which persons with disabilities and their representative organizations have been actively involved in all processes of implementation, monitoring and evaluation of the Convention in the European Union.

D. Compliance of European Union institutions with the Convention (as public administrations)

General obligations (art. 4)

41. Please comment on the results of the planned equality and diversity audit of selection processes. Has a formal reasonable accommodation policy for persons with disabilities been adopted?

Equality and non-discrimination (art. 5)

42. Please describe the European Parliament criteria for assessing the reasonableness and proportionality of accommodation measures, which are included in its draft internal

rules. Please inform the Committee about how employees of European Union institutions who are parents of children with disabilities are protected against discrimination in all its forms.

Accessibility, freedom of expression and opinion; access to information (arts. 9 and 21)

43. Please indicate the timetable for ensuring the full accessibility of all official European Union websites and other communication channels.

Education (art. 24)

44. Please provide information on quality inclusive education programmes available for children with disabilities who are members of families of European Union civil servants and who attend European schools.

Work and employment (art. 27)

45. Please indicate the percentage of persons with disabilities employed within European Union institutions, and whether there is any specific policy concerning their employment.

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Consideration of reports submitted by States parties under article 35 of the Convention

List of issues in relation to the initial report of the European Union

Addendum

Replies of the European Union to the list of issues*

[Date received: 22 June 2015]

* The present document is being issued without formal editing.

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Acronyms and abbreviations

ANED	Academic Network of European Disability experts
Charter	Charter of Fundamental Rights of the European Union
Court of Justice	Court of Justice of the European Union
Commission	European Commission
Convention	UN Convention on the Rights of Persons with Disabilities
Council	Council of the European Union
Disability Strategy	European Disability Strategy 2010–2020
EDF	European Disability Forum
EEAS	European External Action Service
EEC	European Economic Community
EESC	European Economic and Social Committee
Ombudsman	European Ombudsman
EIDHR	European Instrument for Democracy and Human Rights
Parliament	European Parliament
EPSO	European Personnel Selection Office
ERDF	European Regional Development Fund
ESF	European Social Fund
EHSIS	European Health and Social Integration Survey
ESI Funds	European Structural and Investment Funds
FRA	European Union Agency for Fundamental Rights
EU	European Union
Eurostat	Statistical office of the European Union
EU-SILC	European Union Statistics on Income and Living Conditions
GALI	Global Activity Limitation Indicator
LFS	Labour Force Survey
OP-CRPD	Optional Protocol to the UN Convention on the Rights of Persons with Disabilities
NGO	Non-governmental organisation
REC	Rights, Equality and Citizenship programme 2014–2020
TFEU	Treaty on the Functioning of the European Union

Introduction

1. This document contains the replies of the European Union (EU) to the list of issues (CRPD/C/EU/Q/1) of the Committee on the Rights of Persons with Disabilities (the Committee) concerning the EU's report on the implementation of the Convention on the Rights of Persons with Disabilities (the Convention) (SWD(2014) 182).[1] The Committee adopted the list of issues on 17 April 2015; the European Commission (the Commission) received them on 20 April 2015. The Commission prepared the replies in liaison with other EU institutions, bodies and agencies. On 20 May 2015, the European Parliament (Parliament) adopted a Resolution on the List of Issues.[2]

A. Purpose and general obligations (arts. 1–4)

General obligations (art. 4)

Reply to the issues raised in paragraph 1 of the list of issues

2. In 2008, the Commission adopted proposals for the EU's conclusion of the Convention and for the EU's accession to its Optional Protocol (OP-CRPD).[3] Council prioritised the Convention's conclusion.

3. The EU accession to OP-CRPD requires unanimous agreement of its Member States in the Council and the consent of the Parliament. In 2009, the Parliament invited the Council to approve the conclusion of OP-CRPD and called on Member States to accede to or ratify it.[4] In 2011, the Parliament reiterated its support for the proposal and called on the Council to give it proper follow-up.[5] So far, 21 Member States have acceded to OP-CRPD and discussion in the Council is ongoing.

Reply to the issues raised in paragraph 2 of the list of issues

4. The Commission is committed to promoting and protecting the rights of persons with disabilities in line with the Convention. At EU level, the Commission has the right of initiative to propose laws for adoption by Parliament and Council (national ministers).

5. The European Disability Strategy 2010–2020 (Disability Strategy) lays down actions to implement the Convention at EU level. The Commission implements some actions directly; others require agreement of Parliament and Council, while for others implementation is shared with Member States. The Disability Strategy addresses accessibility, participation, equality, employment, education and training, social protection, health and external action.

6. The Commission regularly discusses implementation of the Convention at EU and Member State level in the High-level Group on Disability and the Work Forum. The High-

[1] http://ec.europa.eu/social/BlobServlet?docId=14086&langId=en.

[2] P8_TA(2015)0208, http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0208&language=EN&ring=B8-2015-0460.

[3] COM(2008) 530 final/2.

[4] European Parliament resolution of 24 April 2009 on the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto, P6_TA(2009)0334.

[5] European Parliament resolution of 25 October 2011 on mobility and inclusion of people with disabilities and the European Disability Strategy 2010-2020, P7_TA(2011)0453.

level Group has representatives of Member States, Norway, the Council of Europe and several EU-level, non-governmental organisations (NGOs). The Commission prepares an annual report of the High-level Group with input from Member States. The Work Forum brings together focal points, coordination and monitoring mechanisms, and civil society organisations, from the EU and its Member States.

7. In order to tackle cross-border issues regarding persons with disabilities, the Commission promotes accession of EU Member States to the Hague Convention of 13 January 2000 on the International Protection of Adults which provides rules on jurisdiction, applicable law and international recognition and enforcement of protective measures. The Hague Convention establishes a mechanism for co-operation between the authorities of contracting states. It furthers some objectives of the Convention on the Rights of Persons with Disabilities, in particular those of Article 12 on equal recognition before the law.

8. In January 2015, the Parliament set up an inter-committee coordination working group made up of Members from each Committee concerned.[6] It will review documents and activities to raise awareness of disability-related issues and promote a coordinated approach to the implementation of the Convention. The Parliament's High-level Group on Gender Equality and Diversity guarantees equality of opportunity for people with disabilities and favours their full participation in the Parliament administration.

9. The annual management plan of the European Ombudsman (the Ombudsman) sets out its strategic priorities over the year. For 2015 these include:

- Identifying the highest standards and best practices in relation to fundamental rights through cooperation with international networks and organisations
- Proactively identifying areas of key strategic importance and targeting appropriate resources to investigate, through own-initiative inquiries, systemic problems related to the implementation of the Convention within the EU administration
- Reviewing the structure and content of the website in order to inform both general public, key target audiences and other stakeholders and to better meet the needs of users, including those with a disability

10. Other EU bodies contribute to the Convention's implementation. Under its multiannual framework,[7] the Fundamental Rights Agency (FRA) is mandated to work on discrimination on the grounds of disability. As part of the EU monitoring framework, the agency collects and analyses data and develops indicators and benchmarks.[8]

Reply to the issues raised in paragraph 3 of the list of issues

11. The new Commission, who took office on 1 November 2014, has taken a clear commitment to prioritise and streamline its work. This will be achieved through a new way of working with Vice-Presidents coordinating and steering work in the priority areas set in the Political Guidelines of European Commission President, Jean-Claude Juncker. These include a new boost for jobs, growth and investment; a deeper and fairer Internal Market; a deeper and fairer Economic and Monetary Union in which social dialogue is given new importance; an area of justice and fundamental rights based on mutual trust; and bringing

[6] The working group will hold its constituent meeting as soon as the concerned committees will have appointed their representatives.

[7] See: http://fra.europa.eu/en/about-fra/what-we-do/areas-of-work/multi-annual-framework-2013-2017.

[8] Council of the European Union (2012), 3196th Council meeting Transport, Telecommunications and Energy, Press release, PRES/12/447, Luxembourg, 29 October.

about a Union of democratic change. The principles of subsidiarity, proportionality and better regulation are at the core of this work, focusing the Commission's efforts on areas where EU action has clear added value and benefit.

12. To promote the rights of persons with disabilities in the development and implementation of EU policies and legislation, the Commission mainstreams their consideration in relevant policies. To this end, an interservice group on disability meets regularly. Thanks to its new structure and working methods focussed on key policy priorities, the Commission is improving cooperation across departments and increasing coherence between initiatives that affect people with disabilities.

13. The Commission's First Vice-President is responsible for ensuring that all proposals or initiatives comply with the Charter of Fundamental Rights of the EU (the Charter). Article 26 of the Charter recognises and respects the rights of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. The Commission presents an annual report on the application of the Charter. This includes a disability chapter reviewing legislative, policy and other initiatives taken by EU institutions, and case law of the Court of Justice of the EU.

14. In line with the EU Strategic Framework on Human Rights and Democracy, the EU promotes the rights of persons with disabilities in the development and implementation of EU policies and legislation, including in its external relations, for instance in human rights dialogues with third countries and political dialogues with regional organisations and the UN.

15. In the Parliament, standing committees endeavour to ensure coherence of EU legislation with the objectives of the Convention. The Committee on Civil Liberties, Justice and Home Affairs is responsible for measures to combat discrimination based on disability and the Committee on Employment and Social Affairs is responsible for all aspects of social policy and discrimination based on disability in the workplace and the labour market. The Committee on Petitions receives a considerable number of petitions by people with disabilities who encounter barriers to their enjoyment of EU citizenship rights, and often pointing to gaps in the implementation of the principle of equal treatment. These committees are devoted to ensuring that EU legislation and policies comply with the Convention. In December 2014, the Parliament re-established a Disability Intergroup to disseminate information and raise awareness of the Convention, for instance by putting forward parliamentary questions to the Commission, or tabling amendments to relevant parliamentary reports.

16. In the first semester 2015, the Latvian Presidency of the Council of the EU put disability high on its agenda: a high-level meeting on inclusive education and employment aimed at identifying progress and challenges after five years since the Convention's entry into force and discussed how disability policy should shift to a human rights-based model. A conference in June 2015 focussed on de-institutionalisation and the development of social care policy in Europe.

17. The Ombudsman has two main tools at its disposal to ensure that the EU administration lives up to its obligation under the Convention: investigating complaints from citizens and organisations and carrying own-initiative inquiries. The Ombudsman is competent to investigate the requirement on the EU institutions to ensure that: their services are accessible to persons with disabilities; persons with disabilities have access to information from, and means of communication with, the institutions; the work environment of the EU institutions is open, inclusive, and accessible to persons with disabilities; and persons with disabilities can effectively and fully participate in political and public life. In May 2014, the Ombudsman opened an own-initiative inquiry into respect

for fundamental rights in the EU's cohesion policy. As a result, the Ombudsman produced eight guidelines for improvement to support the Commission as it supervises the Member States in this area. Since March 2014, a seconded national official reinforces the Ombudsman's team to make more visible the Ombudsman's role in protecting and monitoring the application of the Convention within the EU administration.[9]

18. In 2014, the European Economic and Social Committee (EESC) set up an ad hoc group on disability[10] to gather and assess civil society views on implementation of the Convention. The group held two meetings and two hearings in 2014[11] and will conclude its work in September 2015.

19. Since 2010, FRA's annual reports[12] have been widely disseminated. FRA published a multilingual postcard[13] that raises awareness about the difference between medical and human rights-based approaches to disability. FRA promotes awareness of the human rights-based approach to disability through its network of civil society organisations (Fundamental Rights Platform),[14] including a specific session on the Convention.[15]

Reply to the issues raised in paragraph 4 of the list of issues

20. The EU Statistics on Income and Living Conditions (EU-SILC) is the main source for the compilation of statistics on income, social inclusion and living conditions, including housing, labour, education and health.[16] EU-SILC gathers data from administrative registers and surveys at national level. It is being revised to streamline its contents and to better respond to new policy needs, but also to address increasing non-response, and not to increase the burden on respondents.

21. EU-SILC does not specifically include variables addressing barriers faced by disabled people, but it includes a global activity limitation indicator, a proxy measure for disability that has demonstrated its value in assessing functional limitation. It is used in many European countries (beyond the EU), the United States and Japan, but does not address explicitly the barriers persons with disabilities may face.

22. Information on such barriers was collected under the European Health and Social Inclusion Survey (EHSIS) in 2012–2013. It related to barriers in 10 life domains: Mobility,

[9] This official presented the Ombudsman's mandate at numerous conferences and meetings during the year, informing relevant stakeholders about the right to turn to the Ombudsman in case of the EU administration's non-compliance with the Convention.

[10] The ad hoc group comprises nine members from different groups and sections.

[11] The first meeting adopted an action plan for mainstreaming the Convention in the EESC's work. Hearing topics have included: examining the EU report on the Convention and the preparation of an alternative report from a civil society perspective; examining the next Commission's programme relating to disability, to disability in the mid-term review of Europe 2020 strategy, to the implementation of disability provisions in structural funds and to the EU report on implementation of the Convention. The internal implementation of the Convention within the EESC was analysed and discussed with people working in services related to building accessibility, human resources, "going local" activities, and funding of projects. Moreover, the group chair presented its activities and the main content of the Convention in all EESC groups and most of the Sections.

[12] See: http://fra.europa.eu/en/publication-type/annual-report.

[13] See: http://fra.europa.eu/en/publication/2012/fra-disability-project-postcard.

[14] See: http://fra.europa.eu/en/cooperation/civil-society/about-frp.

[15] See, for example: http://fra.europa.eu/en/project/2012/children-disabilities-targeted-violence-and-hostility and http://fra.europa.eu/en/project/2011/multiple-discrimination-healthcare. Internally, FRA mainstreams disability within its other thematic areas of work and conducted a diversity audit of its staff during 2014.

[16] It is used to monitor the poverty reduction headline target of the Europe 2020 strategy.

Transport, Accessibility to buildings, Education and training, Employment, Economic life, Social contact and support, Leisure pursuits, Internet use, and Attitudes and behaviour. EHSIS was discontinued (see reply to question 37), but a specific disability module will be considered in the third wave of the European Health Interview Survey (EHIS), scheduled in 2019. In addition, the 2011 Labour Force Survey ad hoc module on employment of persons with disabilities contains questions on barriers faced in employment by disabled persons.

Reply to the issues raised in paragraph 5 of the list of issues

23. Directive 2000/78/EC prohibits discrimination based on disability as regards employment and occupation. In 2008, the Commission proposed an equal treatment directive to extend the existing EU anti-discrimination legal framework beyond employment to social protection, healthcare, education and access to goods and services available to the public, including housing. The denial of reasonable accommodation for persons with disabilities would constitute prohibited discrimination. The proposal is still being considered by Parliament and Council.

Reply to the issues raised in paragraph 6 of the list of issues

24. Before the Commission proposes new initiatives likely to have significant impacts, the Commission's departments conduct impact assessments evaluating potential impacts across the economic, environmental and social areas. This system contributes to ensuring policy goals are met at minimum cost, benefiting citizens, businesses and workers while avoiding unnecessary regulatory burden. The quality of policymaking is ensured through transparent, comprehensive and balanced evidence on the nature of the problem, the added value of EU action and the costs and benefits of alternative courses of action. The Commission gathers evidence on the advantages and disadvantages of policy options.

25. Relevant impacts of proposed initiatives on the social and fundamental rights of persons with disabilities are assessed. Under the 2011 Operational Guidance on taking account of fundamental rights in impact assessments, Commission initiatives should comply with the Convention. The 2009 Guidance for assessing social impacts highlights persons with disabilities as a target group. Impact assessments are reviewed by a board, soon to be replaced by a Regulatory Scrutiny Board[17], an independent quality control function working under the authority of the Commission President. All reports and board opinions are published once the Commission has adopted the relevant proposal. The impact assessment system has grown stronger and improved since 2002. Building on experience gained, the Commission adopted in May 2015 a new Better regulation package with strengthened and more operational impact assessment guidance. When assessing social and fundamental rights impacts of possible initiatives, Commission departments are asked to consider whether and how an option ensures respect for the rights of people with disabilities in conformity with the UN Convention.[18]

26. The new Regulatory Scrutiny Board will have a strengthened scrutiny role. It will assess the quality of the impact assessments which inform political decision-making. Should the Commission decide to take action in the absence of an adequate supporting impact assessment, it will publicly explain why. The Board will now also check major evaluations and "fitness checks" of existing legislation. The composition of the Board will allow it to deliver an impartial opinion on the basis of comprehensive know-how of the

[17] See the Commission Communication on "Better regulation for better results – An EU agenda" of 19 May 2015, COM(2015) 215 final http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf.

[18] http://ec.europa.eu/smart-regulation/guidelines/toc_tool_en.htm, tools 16 and 24.

relevant analytical methods. The new Board will have a chairperson plus six members who, for the first time, will work full time and be free of any policy responsibilities within the Commission. In addition, three of these members will be recruited for fixed, non-renewable terms from outside the EU Institutions. All members will be selected via rigorous and objective selection procedures on the basis of their expertise.

27. The Commission's Inter-service group on disability and the unit for the rights of persons with disabilities play an important role. They ensure that the needs and rights of people with disabilities are considered in relevant policy areas for new legislative proposals and initiatives and in the implementation, monitoring and evaluation of policies and actions.

Reply to the issues raised in paragraph 7 of the list of issues

28. The impact assessment system strives for full involvement of stakeholders. Consultation of interested parties is essential before the Commission adopts initiatives. The Commission holds consultations when developing a new initiative or revises existing legislation. The Commission takes account of the findings in preparing the impact assessment and in drafting the initiatives. Building on the existing minimum standards for consultations[19], the Commission's new Better Regulation Guidelines[20] strengthen Commission's commitment to consultations that are of a high quality and transparent, reach all relevant stakeholders and target the evidence needed to make sound decisions. Stakeholders will be able to express their views over the entire lifecycle of a policy. Guidance on public consultations asks that the choice of methods and tools take into account accessibility needs, in particular by ensuring the use of a variety of communication means and accessible formats, to allow persons with disabilities to participate effectively in consultations.

29. The Commission provides for active involvement of representative organisations of persons with disabilities throughout the year, in the Disability High-level Group, the European Day of Persons with Disabilities Conference and the Work Forum, where issues related to implementation of the Convention are discussed. The Commission supports European standardisation organisations in making meetings accessible to facilitate the participation of persons with disabilities.

30. Representative organisations of persons with disabilities can draw on European funds for their active involvement in the EU decision-making process.[21] Since 2010, grants directly aimed at supporting and strengthening the operational and advocacy capacity of EU-level organisations have been awarded annually, under PROGRESS (2007–2013) and the Rights, Equality and Citizenship (REC) programme (2014–2020).[22] In 2015–2017, EUR 2.2-3 million will be available annually to such support, and a partnership has been established with eight leading EU-level NGOs representing a diversity of disabilities and stakeholders. Their work programmes support the implementation of the Convention and the Disability Strategy, the processes at EU and national levels for legislation and policymaking on disability, accessibility of goods and services, and transition from

[19] COM(2002) 704 complemented by COM(2012) 746, SWD(2012) 422 and COM(2014) 368.

[20] http://ec.europa.eu/smart-regulation/better_regulation/documents/com_2015_215_en.pdf.

[21] In the period 2010-2013, grants were awarded under triennial partnership agreements and annual operating grants between the Commission and up to 10 beneficiary organisations, under the Community Programme for Employment and Social Solidarity (PROGRESS programme). In 2014, a specific action grant supported the annual work programme of nine representative organisations.

[22] Regulation (EU) No. 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020 ("REC Programme").

institutional to community-based care.[23] Another 16 organisations active in the promotion of social inclusion, poverty reduction or microfinance and social enterprise finance are supported under the EU Programme for Employment and Social Innovation (2014–2020), which aims to promote a high level of quality and sustainable employment, guaranteeing adequate and decent social protection, combating social exclusion and poverty and improving working conditions.

31. Other programmes offer opportunities for involvement and support to disabled people's organisations active in the fields of employment (European Social Fund), education, training and youth (Erasmus+ programme), health (Health programme) or research and innovation (Framework Programme and Horizon 2020). As an example, the latter funded the research project DISCIT — *Making persons with disabilities full citizens*,[24] which investigates the settings for active citizenship in the economy, the market, community living, civic life, and the use of new technologies.

32. Financial support for the rights of persons with disabilities is an objective of EU development cooperation. The EU supports awareness-raising campaigns and capacity building for ratification of the Convention by third countries. The EU supports multilateral organisations, partner countries and civil society organisations working on the rights of persons with disabilities.

33. The European Expert Group on Deinstitutionalisation gathers non-governmental organisations, international organisation and other stakeholders and cooperates with the Commission to reinforce the dialogue on the shift to community-based services. The joint work has resulted in guidelines and a toolkit for the efficient use of European Structural and Investment Funds (ESI Funds).

34. All committee and plenary meetings of Parliament are open to the public and web-streamed. In addition, the Parliament regularly organises public hearings and exchange of views with guest speakers from stakeholders. Rapporteurs consult and take into consideration the position of stakeholders in the process of drafting their reports, opinions and amendments. Furthermore, since the adoption of the Convention, the priorities of the Parliament Disability Intergroup are directed at its implementation, which includes active involvement of representative organisations of persons with disabilities. The Intergroup organises activities to inform its Members about issues of importance to persons with disabilities. Meetings actively involve European civil society organisations and other EU institutions. Meeting reports are published on the website.

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

Reply to the issues raised in paragraph 8 of the list of issues

35. As indicated in the 2014 Commission report concerning Directive 2000/78/EC,[25] infringement cases dating from 2005–2007 have been closed as Member States aligned their legislation with the Directive. Infringements against Belgium and the Czech Republic were closed following amendments of their national legislation. An infringement against Romania remains open (concerning penalties in case of breach of anti-discrimination law).

[23] Call for proposals for framework partners JUST/2014/SPOB/OG/NETW.

[24] http://discit.eu/.

[25] http://ec.europa.eu/justice/discrimination/files/com_2014_2_en.pdf.

One of the infringement proceedings initiated by the Commission led to a decision by the Court of Justice of the EU finding Italy in breach of its obligation to implement Directive 2000/78/EC in relation to reasonable accommodation for disabled persons in employment.[26] The case was closed following the legislative amendment adopted by the Italian authorities in August 2013.

Reply to the issues raised in paragraph 9 of the list of issues

36. Negotiations continue in the Council where the adoption of the Commission's proposal requires Member States' unanimous approval. The current stage of the legislative procedure has no time limit so the adoption date cannot be predicted. The Commission identified as a political priority the directive's adoption to complete the protection under EU law against discrimination on grounds of religion or belief, disability, age and sexual orientation. The Commission is seeking to convince Member States to abandon their current resistance. The Commission aims to have it adopted under its current mandate.

37. In its Resolution of 20 May 2015, the Parliament deplored the lack of progress within the Council and urged Member States to adopt a common position without delay.

Women with disabilities (art. 6)

Reply to the issues raised in paragraph 10 of the list of issues

38. Several EU activities address the issue of intersectional discrimination on the ground of gender and disability. The work of the European Institute for Gender Equality (EIGE) is particularly relevant. Commenting on the 2015 Work programme of EIGE, the Commission suggested that it provides data on intersectionality under the Gender Index[27], which the Institute hopes to deliver in 2017. A study - scheduled for 2016 - on women in poverty will address intersectionality.

39. Under the Progress programme 2007–13, the Commission co-funded 13 national awareness-raising campaigns on violence against women.[28] Until 2014, the Commission funded transnational grassroots projects by civil society organisations and European networks, under the Daphne III programme.[29] These included research into the phenomenon of violence, the development of prevention and support measures, and awareness-raising activities. Since 2014, funding is provided under the REC programme.[30] The ESI Funds provide significant funding for employment, education and social inclusion. Gender equality is a general obligation for funding. The Lifelong Learning programme supported measures addressing the needs of disabled women.

40. The Commission organises exchanges of best practice so EU countries can learn about successful policies, find ways to overcome obstacles and improve their approaches. Exchanges have focused on raising awareness, using new technologies to better support and protect victims, and on treatment programmes for male perpetrators. In 2014, FRA released the results of the first-ever EU-wide survey on women's experiences of violence.[31]

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[26] Case C-312/11 *Commission v. Italy*, judgment of 4 July 2013.

[27] http://eige.europa.eu/content/gender-equality-index.

[28] http://ec.europa.eu/justice/grants1/calls/just_2012_prog_ag_vaw_en.htm.

[29] http://ec.europa.eu/justice/grants1/programmes-2007-2013/daphne/index_en.htm.

[30] http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm.

[31] European Union Agency for Fundamental Rights (2014) *Violence against women: an EU-wide survey. Main results report* http://fra.europa.eu/en/publication/2014/vaw-survey-main-results.

Children with disabilities (art. 7)

Reply to the issues raised in paragraph 11 of the list of issues

41. Challenges in implementing the legal provisions referred to in paragraph 189 of the EU report concern Member States' policies and legislation for children with disabilities, and not EU legislation. The Commission sought to address the situation of children with disabilities in a study on children's involvement in criminal, civil and administrative judicial proceedings in the Member States.[32] Data and information were generally absent or lacking on children with disabilities. The Commission conducted a study to evaluate legislation, policy and practice on child participation in the Member States, which included a focus on children with disabilities.[33] In June 2015, the Commission organised the 9th European Forum on the rights of the child[34] on coordination and cooperation in integrated child protection systems. A reflection paper[35] highlights that some children may be exposed to greater risks of violence, including children with disabilities, and emphasises the need to ensure that national child protection systems are accessible to all children, without discrimination.

42. In November 2013, the Commission proposed a directive on procedural safeguards for children suspected or accused in criminal proceedings to make sure that they can understand and follow criminal proceedings, including having access to a lawyer. This proposal is currently negotiated with Parliament and Council. Parliament proposed amendments addressing the needs of children with disabilities. These amendments are being discussed in the legislative procedure.

43. DAPHNE and REC sought to prioritise projects that focused on the most vulnerable children, including children with disabilities.[36] The FRA project, Children with disabilities: targeted violence and hostility,[37] aims to contribute to the understanding of the forms and nature of violence that children with disabilities face. The research looks at legislation, policy and services to address violence against children with disabilities in the Member States. The findings are expected to be presented at the end of 2015.

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[32] This study sought to collect all existing publicly available national and international data on the number of children with disabilities in contact with the justice system and information on legislation and policy in place to safeguard their rights. It was published in June 2014 (criminal justice) and June 2015 (civil and administrative justice). http://bookshop.europa.eu/is-bin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=DS0313659 (reports) and www.childreninjudicialproceedings.eu (data).

[33] The study was published in June 2015: http://bookshop.europa.eu/en/evaluation-of-legislation-policy-and-practice-of-child-participation-in-the-eu-pbDS0614240/ The outputs include a summary, national reports for all countries, and a resource catalogue: http://bookshop.europa.eu/en/evaluation-of-legislation-policy-and-practice-of-child-participation-in-the-eu-pbDS0614241/?CatalogCategoryID=Xz2ep2IxLbcAAAEq185g2UJ.

[34] http://ec.europa.eu/justice/events/child-forum-2015/index_en.htm.

[35] http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf.

[36] For example: http://www.inclusion-europe.org/images/stories/documents/Project_CRC/Results/index.html and http://www.mdac.org/en/accessing-justice-children. A 2014 grant awarded to MDAC focuses on identification of and prevention of abuse of children of children with mental disabilities in institutional care.

[37] http://fra.europa.eu/en/project/2012/children-disabilities-targeted-violence-and-hostility.

Awareness raising (art. 8)

Reply to the issues raised in paragraph 12 of the list of issues

44. The Commission raises awareness on the Convention through various initiatives. Information on the Convention and its implementation in the EU is included in various annual reports produced by EU institutions and bodies, such as the General report on the activities of the EU[38], the Commission Report on the application of the EU Charter of Fundamental Rights,[39] the EU Report on Human Rights and Democracy in the World,[40] and reports of the Disability High-level Group, FRA[41] and the Ombudsman.[42] A leaflet on the Disability Strategy and relation to the Convention is distributed in events and meetings.

45. On 3 December each year, the Commission hosts a conference to celebrate International Day of Persons with Disabilities and discuss different themes that are relevant for the implementation of the rights of persons with disabilities and the Convention. The conference gathers people with disabilities and their representative organisations, policy-makers, social partners, service providers, disability and accessibility experts. The Access City Award, run in partnership with the European Disability Forum, raises awareness on accessibility by rewarding European cities that take exemplary steps to improve accessibility for persons with disabilities in the urban environment. The Commission encourages the Committee of the Regions to promote this initiative with cities in different geographical areas. An annual brochure with examples of good practice is produced.

46. In 2012, the Commission organised training on disability, non-discrimination, accessibility and the Convention for its staff working on Structural Funds. A seminar on "How to use structural funds for the transition from institutional to community-based care" was organised in cooperation with the expert group on the transition from institutional to community-based care. The objective was to raise awareness of the situation across Europe of people with disabilities living in long-term residential institutions, and of alternatives in the community; and to explain how Structural Funds can support de-institutionalisation reforms in 2014–2020. In 2012 and 2014, the Commission organised a workshop on disability and the Convention for staff in EU Delegations. The European External Action Service (EEAS) organises training for staff in EU Delegations working on development cooperation and human rights. The training includes one session on disability and the Convention. The Commission funds training on the Convention for judges and legal practitioners.

47. Since 2008, the Parliament has given Equality and Diversity Awards to showcase and reward best practice within its secretariat. To mark International Day of Persons with Disabilities, the Parliament organises awareness-raising events for staff and MEPs.[43] Other activities include films on disability-related subjects, articles in the internal electronic newspaper and the publication of brochures, such as the Disability Etiquette Guide for staff or a brochure for staff members caring for a family member with a disability or long-term illness. The Parliament Intranet has information on disability issues (accessibility,

[38] http://europa.eu/publications/reports-booklets/general-report/index_en.htm.

[39] http://ec.europa.eu/justice/fundamental-rights/charter/application/index_en.htm.

[40] http://www.eeas.europa.eu/human_rights/about/index_en.htm.

[41] http://fra.europa.eu/en/publication/2014/fundamental-rights-challenges-and-achievements-2013-annual-report-2013.

[42] http://www.ombudsman.europa.eu/en/activities/annualreports.faces.

[43] Events include film screenings, exhibitions, music performance of persons with disabilities, information stands, quiz on disability, mini-workshops and acting performance by an inclusive theatre group.

reasonable accommodation, selection, career, training, etc.). A disability awareness course was developed in 2006 and specific training was organised for key units. In 2012–2013, a sign language pilot course was organised for the Parlamentarium in Belgian-French and international sign language. Another course is planned from September 2015 (three modules of 60 hours). It will be the first course of this kind in the training prospectus of EU institutions.

48. The chair of the EESC ad hoc group on disability has presented its activities and the Convention in various EESC groups and sections. Bilateral meetings focussed on topics such as accessibility of buildings, web accessibility and accessibility of documents.

49. In 2014, as Chair of the EU agencies network, FRA proposed — and the agencies agreed to — a joint statement[44] highlighting that EU bodies should seek to employ persons with disabilities and provide the necessary reasonable accommodations. Each agency agreed to strive to promote and raise awareness regarding fundamental rights. FRA will host an awareness-raising session on the Convention for all agencies. FRA organised mandatory disability equality training for its staff and training on web accessibility for communication staff.

Accessibility (art. 9)

Reply to the issues raised in paragraph 13 of the list of issues

50. For **transport**, the EU has legislation to improve accessibility of vehicles (and of infrastructure in the case of rail transport) for persons with disabilities. While there is no specific EU legislation for air transport, the following pieces of legislation are relevant for the other modes of transport:

- Rail transport: Commission Regulation No. 1300/2014 of 18 November 2014 on the technical specification of interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility[45] has been revised and improved to meet the EU's obligations under the Convention. User associations were closely involved in the revision process. According to the Regulation, Member States have to consult representative associations of users when establishing national implementation plans; user associations are involved in the advisory body set up under the Regulation which assists the Commission in monitoring implementation of the Regulation.

  Waterborne transport: Directive 2009/45/EC on safety rules and standards for passenger ships[46] sets out safety requirements for persons with reduced mobility.[47]

[44] See: http://fra.europa.eu/en/news/2015/strengthen-fundamental-rights-protection-all-eu-agencies-sign-joint-statement.

[45] L217 of 14.8.2012, p. 20L356 of 12.12.2014, p. 110. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.356.01.0110.01.ENGhttp://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2012:217:FULL&from=EN.

[46] OJ L163 of 25.6.2009, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0045&qid=1415608134680&from=EN. The specific requirements are listed in a set of Guidelines included in Annex III of the Directive, based on IMO MSC/Circ.735 entitled, "Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons' needs". These Guidelines are stricter than SOLAS (International Convention for the Safety of Life at Sea, 1974, as amended), as the recommendations to cater for passengers with reduced mobility are made mandatory in the EU. The mandatory recommendations concern access to the ship, signs, means to communicate messages, alarms and additional requirements ensuring mobility inside the ship.

Directive 1998/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community[48] contains a relevant provision for passengers with special needs, including passengers with disabilities. In particular, it establishes the possibility for passengers with disabilities to inform the operator of their special needs and it obliges the operator to record this information and communicate it no later than thirty minutes after departure of the ship to the relevant person ashore dealing with passenger registration.

- Road transport (bus and coach): Regulation (EC) No. 661/2009 concerns type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor.[49]

For monitoring, implementation and enforcement of passenger rights, see reply to question 24.

51. For **information and communication**, Article 7 of the Audiovisual Media Services Directive[50] encourages the provision of accessibility services to people with visual or hearing disability. The Commission monitors implementation by Member States. The 2011 and 2014 monitoring exercises confirmed that Article 7 has motivated Member States to do more. Some Member States ensure close to 100% subtitling on their main channels. In case of non-compliance by service providers, regulators may impose fines. In 2012, the Commission proposed a directive on the accessibility of public sector web sites[51] with provisions for monitoring and reporting by Member States. This proposal is under consideration by Parliament and Council. Furthermore, Article 7 of the Universal Service Directive[52] provides for measures to be taken by Member States to ensure access and affordability of publicly available telephone services, directories and directory enquiry services under the universal service regime. Article 23a of this Directive allows Member States to specify requirements providing disabled end-users equivalent access and choice of electronic communications services. Commission services yearly monitor and report on the implementation of the electronic communications framework, including the specific requirements set in this Directive.

52. For **public procurement** procedures, Directives 2014/24/EU[53] and 2014/25/EU[54] must be transposed into national law by Member States by 18 April 2016. Regarding the monitoring of accessibility requirements for public procurement procedures, the 2014 Public Procurement Directives establish the obligation for contracting authorities to provide an individual written report on each procedure for the award of a contract. Contracting authorities must document the progress of all procurement procedures and keep sufficient documentation to justify decisions taken during procurement procedures, such as documentation on communications with economic operators and internal deliberations, preparation of procurement documents, negotiation, selection and award of the contract. If a contracting authority were of the view that accessibility requirements should not be considered, it would have to provide duly justified reasons. Documentation must be kept for

[47] International Convention for the Safety of Life at Sea, 1974, as amended.

[48] OJ L 188, 2.7.1998, p. p. 35. http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1433253755621&uri=CELEX:31998L0041.

[49] OJ L 200, 31.7.2009, http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009R0661.

[50] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:095:0001:0024:EN:PDF.

[51] http://ec.europa.eu/digital-agenda/en/news/proposal-directive-european-parliament-and-council-accessibility-public-sector-bodies-websites.

[52] OJ L 108 of 24.4.2002, p. 51.

[53] Directive 2014/24/EU on public procurement, OJ L 94 of 28.03.2014, p.65.

[54] Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors, OJ L 94 of 28.03.2014, p. 243.

at least three years from the award of the contract. The report must be provided to the Commission or the responsible national authorities, bodies or structures in charge of monitoring, if requested. Member States may have official lists of approved contractors, suppliers or service providers, or provide for their certification by bodies complying with European certification standards under the directives.

53. Regarding sanctions under the 2014 Public Procurement Directives, contracting authorities and economic operators play a key role in the implementation of accessibility requirements in a public procurement procedure; penalties differ depending on who has not observed the accessibility requirements. For contracting authorities, the Directives contain an obligation[55] for all procurement intended for use by natural persons, whether general public or staff of the contracting authority, to take account of the accessibility criteria for persons with disability or design-for-all for the drafting of technical specifications, except in justified cases. If contracting authorities do not observe this obligation, legal action could be taken at national level.

54. For economic operators, non-observance of accessibility requirements could trigger two penalties:

- If an economic operator submits a tender that is not compliant with the technical specifications, such non-compliance will render its offer invalid.
- If the economic operator discriminates against disabled employees, it can be excluded by the contracting authority — based on Article 57(4)(a) in conjunction with Article 18(2) of Directive 2014/24/EU — for non-compliance with applicable obligations in the field of social and labour law established by Union law, national law, collective agreements or by the international social and labour law provisions listed in Annex X to Directive 2014/24/EU; or — based on Article 57(4) c) of Directive 2014/24/EU — it can be excluded for grave professional misconduct. The same possibilities of exclusion exist under Directive 2014/25/EU.

Reply to the issues raised in paragraph 14 of the list of issues

55. The Commission promotes a barrier-free Europe. Its 2015 work programme reaffirmed its commitment to equality of opportunity for people with disabilities, in full respect of the Convention, including accessibility to the physical environment, transportation, information and communications technologies and systems and other facilities/services.

56. The Commission is considering a proposal for a European Accessibility Act. Stakeholders' views have been sought in various ways — by a public consultation, a Eurobarometer, a Panel for small and medium-sized enterprises, a high-level dialogue meeting on "accessibility and growth" and by targeted bilateral discussions with organisations of persons with disabilities. Citizens with disabilities and representative organisations of persons with disabilities participated in all the consultations. NGOs supported by the Commission also provided their views.

57. In its Resolution of 20 May 2015[56], the Parliament called on the Commission to present an ambitious proposal for a European Accessibility Act, with the full involvement of persons with disabilities throughout the legislative cycle, and stressed the need for this proposal to include a full range of policy areas with regard to the accessibility of goods and services for all EU citizens, fostering the independent living and full inclusion of people

[55] Article 42(1) of Directive 2014/24/EU and Article 60(1) of Directive 2014/25/EU.

[56] P8_TA(2015)0208.

with disabilities and establishing an ongoing, effective and independent monitoring and enforcement mechanism.

Situations of risk and humanitarian emergencies (art. 11)

Reply to the issues raised in paragraph 15 of the list of issues

58. The Commission's mandate in humanitarian aid includes the provision of needs-based assistance in particular to the most vulnerable, which often includes persons with disabilities; the needs of persons with disabilities are expected to be mainstreamed in operations within all sectors of humanitarian aid. The Commission recently provided guidance on quality programming to better address the needs of vulnerable groups in humanitarian emergencies. The Commission is working on humanitarian guidelines on shelter and settlements[57], where the needs of persons with disabilities will be considered. In 2015, the Commission and the Latvian Presidency of the Council organised a conference to raise awareness of disability among those responsible for response to emergency situations. The Commission has a history of supporting partners such as Handicap International and HelpAge, which target persons with disabilities in emergencies, by providing direct services and conducting advocacy to raise awareness among other humanitarian agencies.

Reply to the issues raised in paragraph 16 of the list of issues

59. EU legislation contains obligations to ensure equal access for persons with disabilities to the Europe-wide emergency number 112. This is a partnership with Member States which are responsible for putting in place the technology and organisation to ensure the efficiency of 112 emergency services. In 2015, 22 Member States reported the implementation of an alternative access to 112. 18 Member States reported the take-up of SMS to 112; while three Member States reported the deployment of similar alternative means to contact emergency services.[58]

60. The Commission supports projects to enable e-inclusion in the area of emergency services. The REACH 112 project[59] validates implementation and interoperability of accessible alternatives to traditional voice telephony suitable for all using the concept of "total conversation".

Reply to the issues raised in paragraph 17 of the list of issues

61. In the area of civil protection, the Commission's mandate is to support, complement and facilitate coordination of Member States' actions in disaster management and to increase public awareness and preparedness for disasters. The needs of persons with disabilities are progressively integrated into all aspects of disaster management.

62. In March 2015, the Council adopted conclusions on disability-inclusive disaster management.[60] They constitute the EU and the Member States' commitment and action towards strengthening the interests and rights of persons with disabilities in disaster management. Persons with disabilities and their representative organisations were consulted during their preparation.

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[57] Their publication is foreseen for 2015.

[58] https://ec.europa.eu/digital-agenda/en/news/implementation-european-emergency-number-112-results-eight-data-gathering-round.

[59] http://www.reach112.eu/view/en/index.html.

[60] 6450/15.

Access to justice (art. 13)

Reply to the issues raised in paragraph 18 of the list of issues

63. EU legislation addresses the rights and needs of persons with disabilities as regards access to justice. The Victims' Rights Directive[61] requires Member States to ensure that persons with disabilities are able to benefit fully from the rights set out in the directive on an equal basis with others, including by facilitating the accessibility to premises where criminal proceedings are conducted and access to information. Moreover, particular attention to victims with disabilities shall be paid when assessing their individual protection needs from secondary and repeated victimisation. The deadline for transposition of the Directive by the Member States expires on 16 November 2015.

64. Directive 2011/99 on the European protection order and Regulation 606/2013 on mutual recognition of protection measures in civil matters call on competent authorities to give appropriate consideration to the needs of victims, including persons with disabilities. The Regulation entered into application on 11 January 2015. The deadline for transposition of the Directive by the Member States expired on the same date. The Commission initiated infringement proceedings against several Member States for non-communication of transposition measures of the Directive.

65. The Commission monitors the transposition and application of EU directives. Member States must notify to the Commission their national implementing measures. If a Member State does not implement a directive in time, or the implementation measures are not in conformity with EU law, the Commission may initiate infringement proceedings.[62] If a solution is not found in the course of these proceedings, the Commission may refer the case to the Court of Justice to determine whether the Member State has failed to fulfil its obligation under the treaties.

66. Directive 2010/64/EU addresses the right to interpretation and translation in criminal proceedings for suspected or accused persons who do not speak or understand the language of the proceedings. The right to interpretation includes the provision of appropriate assistance for persons with hearing or speech impediments.[63] Under Directive 2012/13/EU on the right to information in criminal proceedings, suspects or accused persons should be provided promptly with information concerning certain procedural rights, such as the right to interpretation and translation, which may include sign language interpretation or alternative communication means. Member States must ensure that information is provided in simple, accessible language, taking into account particular needs of vulnerable suspects or accused persons. Recital 26 underlines that particular attention should be paid to persons who cannot understand the content or meaning of the information, for example because they are too young or owing to their mental and physical condition. The transposition of these two directives by Member States into national law was due by 27 October 2013 and 2 June 2014 respectively. The Commission has initiated infringement proceedings against several Member States for non-communication of transposition measures. Meanwhile all Member States have adopted implementing measures. The Commission is assessing the conformity of national implementing measures with both directives.

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[61] Directive 2012/29/EU on common minimum standards on the rights, support, and protection of victims of crime.

[62] These contain a number of steps provided under the EU Treaties. http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/index_en.htm.

[63] Article 2(3) of the Directive. Recital 27 refers to people who are in a potentially weak position, in particular because of any physical impairment which affects their ability to communicate effectively.

67. Commission Recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings[64] provides under paragraph 18 that Member States should inform the Commission on the measures taken to give effect to it within 36 months of notification. Based on this information, the Commission will monitor and assess the measures taken by Member States and possibly re-consider any need for binding EU legislation.

68. Parties to actions before the Court of Justice must be represented by a lawyer authorised to practise before a court of a Member State or a State which is a party to the Agreement on the European Economic Area. The Court's services are examining measures to allow lawyers with disabilities to more easily perform their tasks before the Court.

69. The Ombudsman is a complaint mechanism free of charge and available to citizen or residents of a Member State and businesses, associations or other bodies with a registered office in the EU. The legal capacity of the complainant is not considered as admissibility criteria. Complaint will be examined regardless the legal capacity of its author.[65] Significant efforts to communicate the Ombudsman's role and mandate in plain language have been undertaken and the Ombudsman has provided decisions in large print or audio versions. The Ombudsman develops a public register of documents, aiming also at ensuring that persons with visual impairments can access the documents.

70. FRA's founding regulation,[66] which sets its mandate, is in line with the Convention's requirements. The Agency undertakes its tasks to collect data and raise awareness on fundamental rights in complete independence.[67]

Freedom from exploitation, violence and abuse (art. 16)

Reply to the issues raised in paragraph 19 of the list of issues

71. Directive 2011/92/EU on combating the sexual abuse and sexual exploitation of children and child pornography requires a minimum level of assistance for victims. Offences causing sexual abuse are defined taking into account the particularly vulnerable situation of the child, including physical or mental disability. Recital 10 states that disability, by itself, does not automatically rule out consent to sexual relations.

72. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims[68] requires Member States, when providing assistance and support to victims, to attend to victims with special needs, which can include a disability or a mental or psychological disorder. The Directive was to be transposed into national law by 6 April 2013 and the Commission has been monitoring progress in Member States and supporting the relevant national procedures. Several infringement cases were launched in 2013 against Member States who failed to notify the Commission of transposing legislation. To date, 25 Member States have indicated that they have transposed the Directive. The Commission is analysing the information received and will report, in accordance with Article 23 of the Directive, on the state of transposition across all Member States.

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[64] C(2013) 8178 final, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H1224(02)&from=en.

[65] A further flexibility of the procedure at the Ombudsman is that if a complaint should not pass the admissibility test for a failure of appropriate administrative approaches for example, the Ombudsman can still consider examining the issue at stake by the means of an own-initiative inquiry.

[66] Council Regulation (EC) 168/2007.

[67] Article 16.

[68] OJ L 101, 15.4.2011, p. 1.

73. Women and girls with disabilities are included in several initiatives on violence against women. In relation to the Victims Directive, where the needs of victims of gender-based violence are also addressed, see reply to question 18. The Commission has provided EUR 3.7 million for national awareness-raising activities on violence against women in 13 Member States[69] and an average of EUR 9 million a year for transnational grassroots projects by civil society organisations. Funding was provided to some projects targeting people with disabilities[70], including a campaign against violence and bullying of young people with learning disabilities. The Commission organises exchanges of good practice on violence against women. The FRA EU-wide survey on gender-based violence addressed the prevalence of violence among women with disabilities or health problems.[71]

Protecting the integrity of the person (art. 17)

Reply to the issues raised in paragraph 20 of the list of issues

74. The recommendation from the Parliament's study on *Discrimination generated by the intersection of gender and disability* — to issue a legislative proposal to ban forced sterilisation — has not been considered by the Commission.

Liberty of movement and nationality (art. 18)

Reply to the issues raised in paragraph 21 of the list of issues

75. EU rules on free movement of EU citizens (Directive 2004/38/EC) provide that EU citizens residing in another Member State than their own shall enjoy equal treatment with nationals, subject to the specific provisions provided for in the EU Treaties or secondary law. Recital 31, notes that Member States should implement this directive without discrimination on grounds such as disability.

76. The social security protection of a person with disabilities is assured by Member States, under national law. EU law does not harmonise national social security systems, but coordinates them with regard to insured persons in cross-border situations. Regulation (EC) No. 883/2004 provides clear rules for the competent Member State to grant social security benefits to a person who has been subject to different schemes. It ensures that application of different national legislations respects the basic principles of equality of treatment and non-discrimination and that it does not adversely affect persons exercising their right to free movement.

77. Invalidity insurance schemes in the EU can be either risk schemes (the invalidity pension is independent of the periods of insurance completed) or acquired rights schemes (the longer the person has been insured, the higher the invalidity pension). The regulation outlines two relevant basic principles:

- Aggregation of periods: when someone claims an invalidity benefit, previous periods of insurance, work or residence in other Member States are taken into account if necessary.

[69] http://ec.europa.eu/justice/grants1/calls/just_2012_prog_ag_vaw_en.htm.

[70] One example is the project on access to specialised victim support service for women with disabilities, run by the Ludwig Boltzmann Institute and funded under Daphne 2011-2012 call: http://ec.europa.eu/justice/grants1/calls/daphne_call_for_proposals_action_grants_2011_2012_en.htm.

[71] The survey results show that women who have health problems or a disability indicate a higher prevalence of various forms of violence than women who do not have similar health problems or a disability. http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf.

- Exportability of benefits: invalidity pensions paid by a Member State are not reduced, suspended or withdrawn if the beneficiary or the member of his/her family resides in another Member State than the one providing the benefits. As regards long-term care benefits, according to coordination rules, benefits in cash are exported by the Member State where the person remains insured to the Member State of residence.[72]

78. Regulation (EU) No. 492/2011 provides for EU workers and their family members the right to the same tax and social advantages as nationals of the host Member State. Social assistance benefits are provided by Member States according to their national legislation and cannot be transferred to another Member State if the beneficiary changes residence. Directive 2004/38/EC enables Member States to limit the right to social assistance under certain conditions. The Commission is committed to ensuring the correct and full application of these rules throughout the EU, if necessary by launching infringement proceedings.

79. The following EU tools provide information and assistance concerning the application of EU law:

- To request information, one can make an enquiry via Europe Direct[73]
- To solve a problem with a national administration, one can make an enquiry via Solvit[74]
- To receive tailor-made legal advice, free of charge, one can make an enquiry via the Your Europe Advice service[75]

80. As announced in its 2013 Citizenship Report[76], the Commission is exploring how to facilitate cross border travelling of persons with disabilities in the EU. A pilot working group with 15 Member States and civil society has been discussing the possible establishment of a voluntary EU Disability card since 2013. It would imply recognition of the disability status and would give card holders from other participating countries equal access to the same benefits as national card holders, for example in the areas of culture, leisure, sport, transport and tourism.

Living independently and being included in the community (art. 19)

Reply to the issues raised in paragraphs 22 and 23 of the list of issues

81. The legal framework for the ESI Funds for the 2014–2020 period was strengthened to better promote the inclusion of persons with disabilities in their communities, in particular by supporting a shift from institutional to community-based services. Member States are asked to demonstrate the existence of administrative capacity for the Convention's implementation. A thematic ex-ante conditionality requires that national strategies for reducing poverty aiming at active inclusion include measures to support the shift to community-based services. The legal framework contains obligations for Member

[72] Example: a disabled pensioner in need of care receiving pension from State A, and thus remaining insured for sickness there, resides in the Member State B. The long-term care benefit in cash, for instance in a form of a cash compensation for care expenses, is provided to him by the insurance of State A unchanged even if he resides in State B.

[73] http://europa.eu/europedirect/index_en.htm.

[74] http://ec.europa.eu/solvit/index_en.htm.

[75] http://europa.eu/youreurope/advice/enquiry_en.htm.

[76] Action 6.

States to report on how non-discrimination and accessibility for people with disabilities are implemented through the funds.

82. The transition from institutional to community-based services is one of the aims of investments in health and social infrastructure under the European Regional Development Fund (ERDF). Only those actions that help to establish the conditions for independent living should be supported by the EU. Any measure contributing to further institutionalisation of disabled people or the elderly should not be supported by ESI Funds.

83. The European Social Fund (ESF) should support the fulfilment of the Union's obligation under the Convention with regard to education, work, employment and accessibility. It should not support any action that contributes to segregation or social exclusion. Under Article 8 of the ESF Regulation, actions must aim to combat all forms of discrimination and to improve accessibility, with a view to improving integration into employment, education and training, thereby enhancing social inclusion, reducing inequalities, and facilitating the transition from institutional to community-based care, in particular for those who face multiple discrimination. In the 2014–2020 programming period, at least 20% of ESF funding will target social inclusion measures. Member States are invited to use the ESF and ERDF in an integrated way in order to provide comprehensive actions.

84. As regards the participation of representative organisations of persons with disabilities in the implementation and monitoring of the funds, managing authorities in each Member State must set up monitoring committees for each operational programme. According to the principle of shared management to which the ESI Funds are subject, the Commission is responsible for ensuring that Member States' operational programmes comply with EU law, and that their strategies are in line with EU strategies and policies, including the Disability Strategy. Responsibility for implementation lies with Member States. The Commission is committed to suspending or withdrawing payments if this principle is breached.

85. The Commission recognises the important role of representative organisations of persons with disabilities, NGOs and service providers in monitoring investments, raising awareness of the situation of persons with disabilities in residential settings, and providing guidance for compliance with the Convention. For the period 2014–2020, the Common Provisions Regulation (Art. 5) and the European Code of Conduct on Partnership require Member States to involve all relevant stakeholders as full members in the monitoring committees.[77] The Code of Conduct indicates that throughout the whole programme cycle of the funds, specific attention should be paid to including groups who may be affected by programmes but who find it difficult to influence them, in particular the most vulnerable and marginalised communities, which are at highest risk of discrimination or social exclusion, in particular persons with disabilities. The Commission encourages stakeholders to make use of this possibility and will monitor respect for the principles of multi-level governance and partnership under its annual reporting on implementation of the funds. It will facilitate exchanges of good practice and mutual learning in the framework of the Community of Practice/thematic network to be set up under the ESF. The structured dialogue of the ESI Funds provides a forum for EU-level umbrella organisations to discuss

[77] The European Code of Conduct on Partnership formally sets out for the first time the key aspects of consultation and partnership in the context of the partnership agreements and operational programmes' programming, implementation, and monitoring and evaluation.

with the Commission the state of play of involvement of national organisations in implementing the funds.[78]

86. While the reform of culture services is primarily a matter for national and local authorities, at EU level a working group of Member State experts[79] produced a report on policies and good practices to promote better access to and wider participation in culture. The report[80] includes examples on access to culture for people with disabilities. The legal base of the European Capitals of Culture programme was revised to include selection criteria in relation to access for persons with disability.

Personal mobility (art. 20)

Reply to the issues raised in paragraph 24 of the list of issues

87. For all modes of transport, the EU has passenger rights legislation covering non-discriminatory access, accessible information and provisions on assistance — free of additional cost — to persons with disabilities or reduced mobility to allow them to use transport on an equal footing with other passengers:

- **Air transport:** Regulation (EC) 1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air and repealing Regulation (EEC) No. 295/91[81]
- **Rail transport:** Regulation (EC) 1371/2007 on rail passengers' rights and obligations[82]
- **Waterborne transport:** Regulation (EU) 1177/2010 concerning the rights of passengers when travelling by sea and inland waterway[83]
- **Road transport (bus and coach):** Regulation (EU) 181/2011 concerning the rights of passengers in bus and coach transport[84]

88. According to these Regulations, Member States have to designate national authorities in charge of ensuring their correct application and enforcement. Passengers who believe that their rights under these Regulations have not been respected can complain to the transport company or companies as well as to these national enforcement bodies. For air transport, the Commission has issued interpretative guidelines to further improve air travel of persons with disabilities or reduced mobility[85] notably by stating that the right to

[78] The role of the group of experts is to support the work of the Commission as regards the development of Cohesion Policy and to monitor the evolution and exchange of experience and good practices of policy in the field of partnership and multilevel governance. Members are appointed by the Commission from organisations with specialist competence in the area of Cohesion Policy.

[79] This was convened under the Open Method of Coordination.

[80] http://ec.europa.eu/culture/policy/strategic-framework/documents/omc-report-access-to-culture_en.pdf,

[81] OJ L204/1 of 26.7.2006, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R1107&rid=1.

[82] OJ L315/14 of 3.12.2007, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1371&rid=1.

[83] OJ L334/1 of 17.12.2010, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010R1177&rid=1.

[84] OJ L55/1 of 28.2.2011, http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R0181&rid=1.

[85] SWD(2012) 171 final, http://ec.europa.eu/transport/themes/passengers/air/doc/prm/2012-06-11-swd-2012-171_en.pdf.

assistance cannot be subject to medical proof and that any refusal to booking or carriage must be based on grounds of safety or on the design of the aircraft or its doors. Passenger rights legislation in all modes of transport strongly advises disabled passengers to pre-notify their needs for assistance in order to allow service providers to prepare and to offer adequate assistance tailored to the needs of the individual passenger. However, in cases where no pre-notification was made, service providers still need to make reasonable efforts to provide assistance, inter alia, to allow disabled persons to travel spontaneously.

89. As far as liability of carriers for passengers is concerned, in the case of passengers with disabilities there are specific provisions on mobility equipment or other specific equipment in the EU acquis dealing with liability in case of accidents in the different transport modes. In case of accidents at sea, Regulation (EC) No. 392/2009 on the liability of carriers of passengers by sea in the event of accidents[86] provides for compensation in the event of loss or damage to mobility equipment or other special equipment used by a passenger with reduced mobility. As regards air transport, liability for loss or damage of mobility equipment is regulated by Regulation (EC) No. 889/2002 amending Council Regulation (EC) No. 2027/97 on air carrier liability in the event of accidents which is transposing the Montreal Convention into EU law.[87] As regards liability for mobility equipment in rail and waterborne transport and transport by bus and coach, the liability of carriers in case of loss or damage is regulated in the relevant passenger rights legislation and covers full repair or replacement costs.

90. The Commission launched several information campaigns to raise passengers' awareness about their rights when travelling.[88] The current campaign, which runs from 2013 to the end of 2015, covers all four modes of transport and contains specific actions for persons with disabilities, e.g. a video with voice-over for people with visual impairments providing detailed information on the rights of passengers with disabilities or reduced mobility in all modes of transport and a new poster dedicated to travellers with disabilities or with reduced mobility for display at airports, train stations, ports or bus terminals. The Commission has developed a smart-phone app on passenger rights which is accessible for persons with visual impairments.[89]

91. When travelling to another Member State, persons with disabilities can be protected against healthcare risks by means of the European Health Insurance Card[90], which ensures access to public healthcare providers on an equal footing with the nationals of that country.

Reply to the issues raised in paragraph 25 of the list of issues

92. Under EU passenger rights legislation, Member States must designate national enforcement bodies. While the Commission cannot intervene directly in issues between passengers and transport companies, it monitors the work of national enforcement bodies and organises regular meetings with those bodies to identify problems with application and enforcement and to share best practices among Member States. Where the Commission becomes aware of a Member State's failure to ensure effective enforcement (e.g. by not designating a body or by lack of effective, proportionate and dissuasive penalties or a systematic failure to enforce legislation), it can initiate infringement proceedings against the concerned Member State.

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[86] OJ L 131, 28.5.2009, p. 24, http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1433243251426&uri=CELEX:32009R0392.

[87] OJ L 140, 30.5.2002, p. 2.

[88] http://ec.europa.eu/transport/passenger-rights/en/32-campaign.html.

[89] http://europa.eu/rapid/press-release_IP-14-781_en.htm.

[90] http://ec.europa.eu/social/main.jsp?catId=559.

93. Implementation of the safety requirements for passengers with reduced mobility on board passenger ships flying the flag of EU Member States is ensured by means of surveys carried out by the national administrations of the Member States for their respective fleets. The surveys check the physical equipment construction features on board of a ship, including the design and operation requirements for elderly and disabled persons.[91]

Freedom of expression and opinion, and access to information (art. 21)

Reply to the issues raised in paragraph 26 of the list of issues

94. The legal status of Braille and sign language in the EU Member States is a matter of national competence and the situation is very diverse.[92] Sign languages are an important part of Europe's multilingual diversity recognised and promoted by the EU. Sign languages are not official languages of the EU institutions. There is a trend at European level to make sign languages more visible at events. The Commission financed a pilot project on potential technological solutions to improve independent communication and interaction between the deaf or hard of hearing and EU institutions. The final results of the project will be available during 2015.[93]

95. The use of Braille has been regulated at EU level only for the packaging of medicines.[94] However, several other pieces of legislation require that information is available in accessible format.[95] This can include Braille, depending on individual needs. The EU public administration provides information in accessible formats, upon request of the citizens, whenever possible. This has happened for example for the Work Forum and the European Day of Persons with Disabilities where documents were provided in Braille upon request.

96. According to the new Commission guidelines for stakeholder consultation, published in May 2015, the choice of consultation methods and tools should take account of accessibility, so that different stakeholders groups have the opportunity to contribute to Commission's policy development. This includes the use of various communication means and formats to ensure equal access by persons with disabilities, for instance accessible

[91] See reply to question 13 above.

[92] The situation of sign languages in the EU Member states has been addressed in Member States' reports to the UN Committee on the Rights of Persons with Disabilities and in their individual dialogues with the Committee. Sign languages are recognised and mentioned across a large range of different pieces of legislation: from constitutional recognition, to separate sign language acts. Across Member States, only three have thus far no legal protection of their national sign languages: Bulgaria, Luxembourg and Malta. Italy does not have formal recognition either; a law is pending before the Senate. The Commission has been supporting, through funding, the European Union of the Deaf. Its main objectives are the recognition of the right to use an indigenous sign language and empowerment through communication and information. One of its publications concerns "sign language legislation in the EU", http://eud.eu/Sign_Language_Legislation_in_the_EU_2nd_-i-824.html. It presents the legal status of the national sign languages in the EU Member States and at supranational level.

[93] More information is available at http://www.eud.eu/Insign_Project-i-716.html.
In 1988 and 1998, the European Parliament adopted Resolutions on sign languages. The 1998 Resolution called on the European Commission and Member States to promote sign language and to ensure deaf people can work and learn in their preferred language.

[94] Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001on the Community code relating to medicinal products for human use, as amended (OJ L 311, 28.11.2001, p. 67).

[95] This is, for example, the case of the EU legislation on passenger rights mentioned in reply to question 24.

websites and by facilitating the use of sign language and Braille when dealing with EU institutions.[96]

Education (art. 24)

Reply to the issues raised in paragraph 27 of the list of issues

97. Member States are responsible for the organisation of their education systems. The EU cannot enact legislation on inclusive education. The EU supports and supplements the efforts of Member States to develop inclusive education systems. The strategic framework for European cooperation in education and training (ET2020),[97] the 2010 Council Conclusions on the social dimension of education and training[98] and the 2013 Council Conclusions on the social dimension of higher education[99] stress that European education systems must respond to diversity and provide for the successful inclusion of all learners, including those with special needs, underrepresented and disadvantaged groups. The Commission cooperates with and funds the European Agency for Special Needs and Inclusive Education,[100] which works closely with national education ministries. It provides analysis and information about inclusive education across Europe, recommendations for policy and practice, and tools to monitor progress. Under the annual European Semester, the Commission monitors every year the inclusiveness of education in Member States, and may issue country-specific recommendations on increasing participation of disadvantaged groups in inclusive mainstream education.[101]

98. Despite the stated commitment of Member States to inclusion, learners with disabilities/special needs are still often placed in segregated institutions or in mainstream settings with inadequate support.[102] In 2012, the Commission published an independent report for policy makers entitled *Education and Disability/Special Needs — policies and practices in education, training and employment for students with disabilities and special educational needs in the EU.*[103] The Commission's Communications *Rethinking Education* (2012) and *Opening up Education* (2013) called for new approaches to teaching and learning in order to enable all young citizens to acquire useful skills and to better serve the needs of all learners — including those with disabilities.[104] Youth on the Move,[105] one of

[96] See Better Regulation toolbox, http://ec.europa.eu/smart-regulation/guidelines/docs/br_toolbox_en.pdf p. 315.

[97] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009XG0528(01)&from=EN.

[98] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:135:0002:0007:EN:PDF.

[99] http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/educ/137144.pdf.

[100] http://www.european-agency.org/.

[101] Commission Recommendation CSR 2015, Hungary: http://ec.europa.eu/europe2020/pdf/csr2015/csr2015_hungary_en.pdf
Commission Recommendation CSR 2015, Bulgaria: http://ec.europa.eu/europe2020/pdf/csr2015/csr2015_bulgaria_en.pdf.

[102] Also, special needs education is often misused to segregate Roma children who tend to be over-represented in such settings. This disproportionality raises serious questions about race-based discrimination and has prompted the EU to launch infringement procedures against certain Member States.

[103] http://www.nesse.fr/nesse/activities/reports/activities/reports/disability-special-needs-1. It summarised existing knowledge in this area and highlighted key policy lessons and evidence emerging from a large body of research.

[104] To promote evidence-based policy-making, the *Education and Training Monitor 2014* provides comparison of average early school-leaving rates and of tertiary education attainment rates in the EU by disability status, thus highlighting the need for action to improve the rates of disabled people.

[105] http://ec.europa.eu/youthonthemove.

the Europe 2020 strategy's flagship initiatives, is a comprehensive package of policy initiatives on education and employment for young people in Europe, including young people with disabilities. Launched in 2010, it aims to improve young people's education and employability, to reduce youth unemployment and increase the youth-employment rate – in line with the wider EU target of achieving a 75% employment rate for the working-age population (20–64 years).

99. In 2014–2020, Member States can access resources from the ESI Funds[106] to improve inclusive education. These resources can underpin policy reform and finance education infrastructure. The ESF promotes pathways to integration and re-entry into employment of people with disabilities. The Commission's new Investment Plan for Europe,[107] with its emphasis on investment in education and training, includes opportunities to enhance the stock of educational infrastructures across Europe to ensure accessibility for learners with special needs.

100. In 2014–2020, the *Erasmus+* programme provides opportunities for individual learning mobility, with specific provisions for the participation of disabled people. The programme can fund partnerships between different actors in Member States aiming to improve inclusive education. Under the Progress programme (until 2013), and the REC programme (from 2014), the Commission is co-funding European networks of organisations active in the area of disabilities. Some of their actions raise awareness on inclusive education.

Reply to the issues raised in paragraph 28 of the list of issues

101. The Europe 2020 strategy has no specific education target or indicator related to disabled persons. Eurostat nevertheless disseminates data on persons with disabilities vis-à-vis the two education–related targets (early leavers from education and training and tertiary educational attainment) and other social targets on employment and poverty/social exclusion.[108]

102. The source of information for the two education-related — and employment — indicators is the 2011 ad hoc module on disability under the LFS. This will not be repeated in the medium-term. Instead, national statistical authorities within the European Statistical System are discussing the possible incorporation of the Global Activity Limitation Indicator (GALI) into the LFS every two years. If agreed there would be regular comparable data. In the absence of recent data on disability from LFS, the Commission uses alternative data from the annual survey EU-SILC that provide information also on early school-leaving and tertiary education attainment.[109] However, it is necessary to keep in mind that the questions asked in EU-SILC are different from LFS and thus these two surveys are not comparable. Still EU-SILC is able to show gaps between persons with and without disabilities also in education and employment.

[106] http://ec.europa.eu/contracts_grants/funds_en.htm.

[107] http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0903&from=EN; http://ec.europa.eu/priorities/jobs-growth-investment/plan/index_en.htm.

[108] See http://ec.europa.eu/eurostat/web/health/disability/data/database.

[109] It is to be noted that the two specific education indicators in the Europe 2020 strategy are compiled from the LFS, and not from the EU-SILC.

Health (art. 25)

Reply to the issues raised in paragraph 29 of the list of issues

103. Member States are responsible for the organisation and delivery of health services and medical care. EU law prohibits discrimination in the provision of health care services if based on racial or ethnic origin, or on gender. In 2008, the Commission proposed a Directive to extend protection from discrimination in the provision of health care services on different grounds, including disability. Directive 2011/24, on the application of patients' rights in cross-border healthcare, requires Member States to provide information on patient rights, the quality and safety standards in place, and the accessibility of hospitals for persons with disabilities. These provisions help inform patients of their rights.[110]

104. The EU Health programme supports Member States in exchanging information and good practice to improve access to high quality healthcare for people with disabilities and those in vulnerable situations. Under the Joint Action Mental Health and Well-being (2013–2016)[111] Member States cooperate to agree policy recommendations to provide community-based inclusive mental health care. The aim is to support Member States in implementing the right of people with severe mental disorders to live independently and be included in the community.[112]

105. In 2015, with financial support from Parliament, the Commission will launch a pilot project to develop strategies to address the health needs of vulnerable groups. A particular focus will be on those living in geographically and socially isolated communities, including the elderly and persons with disabilities.

Habilitation and rehabilitation (art. 26)

Reply to the issues raised in paragraph 30 of the list of issues

106. Member States are responsible for the organisation and delivery of health services and medical care. EU law prohibits discrimination in the provision of health care services if based on racial or ethnic origin, or on gender. Member States are responsible for their social security systems. Regulation (EC) 883/2004, which coordinates these systems, protects disabled persons who move to another Member State against sickness and long-term care risks by determining the competence for provision of these benefits and ensuring equal treatment with nationals of the host Member State. Under EU rules, while sickness and long-term care benefits in kind are always provided to such persons in the Member State where they reside on an equal footing with the nationals thereof, cash benefits are exported by the Member State where the person remains insured.[113]

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[110] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:088:0045:0065:EN:PDF.

[111] http://www.mentalhealthandwellbeing.eu/.

[112] EU-funded projects such as ITHACA[112] (EU-Health Programme 2008-2013) and DEMoB.Inc http://ec.europa.eu/research/fp6/ssp/demob_en.htm (7th Framework Programme) have developed tools for measuring and improving the human rights performance in psychiatric long-term care. In addition, the joint action ALCOVE (2011-2013) under the EU Health programme had an objective to promote the rights of people living with dementia. A second joint action on dementia is in preparation and an informal group of governmental experts on dementia has been created as a forum for the dialogue with Member States. As a follow-up of the October 2009 Communication "Solidarity in Health", two conferences were organised in Brussels in January and March 2014 to consider possible further actions on this matter.

[113] Example: a disabled pensioner in need of care receiving pension from State A, and thus remaining insured for sickness there, resides in the Member State B. To access healthcare in the country of

107. To the extent that a (re-)habilitation health service may be classified as a social security benefit, Article 4 of Regulation (EC) No. 883/2004 requires Member States to give equal treatment to EU nationals who are habitually resident on their territory. To the extent that (re-)habilitation services may be linked to access to employment in the host state, Article 45 of the Treaty on the Functioning of the European Union (TFEU) guarantees equality of treatment to EU workers or jobseekers with a disability who go to live in another Member State. Article 5 of Regulation (EU) No. 492/2011 on the free movement of workers also guarantees equal treatment in assistance afforded by employment offices to find employment. Article 7(2) of the same regulation confers equal treatment in relation to social advantages. The term, "social advantage" has been interpreted broadly by the Court of Justice and should apply to habilitation and rehabilitation services, including those in the area of education, health and social services. An EU citizen with a disability who is working would have a right to such social advantages. Family members of EU workers are also entitled to such social advantages (regardless of whether the family member is economically active or not).

108. Article 18 TFEU guarantees equality of treatment to all EU citizens, regardless of their nationality, in relation to matters falling within the scope of application of the EU Treaties. This right of equal treatment is underlined by Article 24(1) of Directive 2004/38/EC on the right of Union citizens and their family members to move and reside freely within the territory of the Member States.

Work and employment (art. 27)

Reply to the issues raised in paragraph 31 of the list of issues

109. In May 2014, the Commission revised the General Block Exemption Regulation[114] making it easier for Member States to grant State support for the employment of certain categories of workers, including those with disabilities as well as disadvantaged workers.[115]

110. The regulation exempts from notification obligations aid for the recruitment of disadvantaged workers and aid for the employment of disabled workers totalling, respectively, up to EUR 5 million and EUR 10 million per undertaking per year. In addition, it covers aid for additional costs of employing disadvantaged and disabled workers, such as the costs of adapting premises and equipment to disabled workers' needs and the costs of employing staff to assist disadvantaged or disabled workers integrate in the workforce. Aid in the form of wage subsidies for employing disabled workers may cover up

residence (B), he registers with the institution there and receives the same medical treatment as the nationals of this country (B). However, being entitled to a long-term care benefit in cash in Member State A where he remains insured, he continues to receive it unchanged from this country (A) while residing in country B.

[114] http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008R0800.

[115] Disadvantaged workers are defined as any person who: (a) has not been in regular paid employment for the previous 6 months; or (b) is between 15 and 24 years of age; or (c) has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education) or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment; or (d) is over the age of 50 years; or (e) lives as a single adult with one or more dependents; or (f) works in a sector or profession in a Member State where the gender imbalance is at least 25% higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or (g) is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment.

to 75% of the wage costs and may be up to 100% of eligible additional costs of employing disabled workers. Aid in the form of wage subsidies for employing disadvantaged workers may cover up to 50% of the wage costs for a 12-month period.

111. The Commission has data on state aid granted under the previous regulation (exempted aid) for the employment of disabled and disadvantaged workers during the 2008–2013 period:

- Aid for the recruitment of disadvantaged workers in the form of wage subsidies (former Article 40) — 1.325.03 million EUR
- Aid for the employment of disabled workers in the form of wage subsidies (former Article 41) — 4.637.64 million EUR
- Aid for compensating the additional costs of employing disabled workers (former Article 42) — 782.43 million EUR

Reply to the issues raised in paragraph 32 of the list of issues

112. The Europe 2020 strategy sets targets for the EU to achieve by 2020 in five areas: employment, research and development, climate change and energy, education, and the fight against poverty and social exclusion. The targets highlight drivers for jobs and growth. In monitoring progress, the Commission has underlined the importance of using complementary indicators, more specific analysis and qualitative information. There are no disability-specific indicators in the Europe 2020 strategy. However, the Commission uses LFS ad hoc module 2011 and EU-SILC surveys to monitor the situation of persons with disabilities and supports the Academic Network of European Disability experts to develop relevant indicators.

113. As part of the European Semester, the Commission has raised concerns about the situation of people with disabilities in education, employment and social inclusion. In 2014, it issued country-specific recommendations to Bulgaria, Croatia, Estonia, the Netherlands and Slovenia on activation measures to facilitate labour market participation and reinforcing prevention to reduce disability and dependency. For the 2015–2016 European Semester, the Commission's proposal[116] includes recommendations on the implementation of reform for employment of people with special needs (Estonia) and on the improvement of inclusive education for disadvantaged children (Austria, Bulgaria, Czech Republic, and Hungary). Recommendations should be formally adopted by the Council of Ministers in July 2015. It will be for Member States to implement the recommendations by including them in their national policies and budgets for 2015–2016. A disability perspective was included in most analyses accompanying the country-specific recommendations for both 2014 and 2015–2016.

114. The 2015 Report of the High-Level Group on Disability will be devoted to the disability dimension of the Europe 2020 strategy. EU-level NGOs supported by the REC programme have contributed to the Europe 2020 strategy monitoring and implementation. As concerns the ESI Funds, please see the reply to questions 22 and 23.

115. The proposal for a Council Decision on guidelines for Member States' employment policies contains guideline 6 on enhancing labour supply and skills, which specifically refers to the need to reduce barriers to employment especially for disadvantaged groups. Guideline 8 focuses on fostering social inclusion, combating poverty and promoting equal opportunities.

[116] Publication on 13 May 2015: http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm.

Adequate standard of living and social protection (art. 28)

Reply to the issues raised in paragraph 33 of the list of issues

116. Data from EU-SILC demonstrate that since 2008 the situation of persons with disabilities (aged 16+) has not changed significantly across the EU: changes in key indicators are in the range 0.5–2 percentage points. The at-risk-of-poverty rate,[117] measuring only income poverty, for persons with disabilities (aged 16+) was 20.8% in 2008, 18.8% in 2010 and 19.1% in 2012. Social transfers (including pensions) play a significant role in preventing poverty: without them, 67.6% (2008) of persons with disabilities would live in poverty. In 2012, the figure was 68.5%.

117. The combined at-risk-of-poverty or social exclusion rate, used for monitoring the poverty and social exclusion target of Europe 2020,[118] was 29.4% in 2010 and 29.9% (21.4% for people without disabilities) in 2013; based on data of 2013, there is a gap of 8.5 percentage points between people with and without disabilities. The percentage of persons with disabilities living in households that are severely materially deprived was 11.7% in 2008, 10.9% in 2010 and 12.8% in 2012.

Reply to the issues raised in paragraph 34 of the list of issues

118. The Commission is attentive to the social impact of budgetary consolidation measures in Member States and encourages them to undertake adequate reforms to promote equal opportunities, employability, education and accessibility for people with disabilities through the Disability Strategy, the Europe 2020 strategy, the Social Investment Package and the ESI Funds.

119. In the European Semester, the Commission emphasises the inclusion of those furthest from the labour market and proposes country-specific recommendations whenever necessary. The Social Investment Package recommends that Member States invest in services that enhance human capital and strengthen the capability to cope with risks. Through the High-level Group on Disability, the Commission facilitates discussion and sharing of best practices.

120. The ESI Funds provide the opportunity to support measures to improve the living conditions of persons with disabilities. For 2014–2020, 351.8 billion EUR is available for funding regional and Cohesion Policy and more than 86 billion EUR for the ESF. The wide range of activities to be supported by ESI Funds can cover almost all aspects of employment, social inclusion and education, thus contributing to reduce poverty. At least 20% of the ESF for 2014–2020 will target social inclusion.

121. In 2007–2013, within ESF, 163 priority axes[119] under 75 operational programmes from 25 Member States had participants with disabilities, accounting for 26% of all priority axes. The ESF budget for the priority axes in which people with disabilities participated

[117] At risk-of-poverty are persons with an equivalised disposable income below the risk-of-poverty threshold, which is set at 60% of the national median equivalised disposable income (after social transfers).

[118] People at risk of poverty or social exclusion are in at least one of the following three conditions: at-risk-of-poverty after social transfers (income poverty), severely materially deprived or living in a household with very low work intensity. The overall EU target is to lift at least 20 million people out of risk of poverty or social exclusion by 2020 with 2008 as a baseline year. All data refer to EU-27.

[119] Programming and financial management of the Structural Funds 2007-2013 were carried out at the level of the (national) operational programmes and their priority axes (i.e. thematic chapters covering individual objectives and interventions).
http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm.

amounts to 49.53 billion EUR.[120] In 2007–2012, the total number of persons with disabilities supported under the ESF was 4.748.760. Interventions included employment, social inclusion and education. Close to 20 billion EUR of ERDF has been allocated by Member States to social inclusion and education objectives in the 2014–2020 programming period for investments in social-, health, education-, childcare-, and housing infrastructure which may have strong links to the shift to community-based services. The Commission supports action to combat unemployment and poverty through the EU Programme for Employment and Social Innovation 2014–2020 (total budget is nearly 920 million EUR).

Participation in political and public life (art. 29)

Reply to the issues raised in paragraph 35 of the list of issues

122. Competence with respect to ensuring the right of persons with disabilities to participate in political and public life rests mostly with the Member States, and EU law does not harmonise Member States electoral procedures. The Commission has been raising awareness of these issues with Member States through the High-level Group on Disability.

123. The Commission raises awareness of the equal right of persons with disabilities to vote and stand for elections at the European level. In 2012, practical examples of the use of new technologies for accessible voting machines were presented in the conference on the occasion of the European Day of Persons with Disabilities.

124. In 2014, FRA, together with ANED and in close cooperation with the Commission, developed indicators on the right of persons with disabilities to political participation. The collected data show that, given the opportunity, people with disabilities actively participate in politics. However, significant challenges to participation on an equal basis with others remain, including: legal obstacles; inaccessible environments, processes and information; a lack of awareness about the right to political participation; and the lack of reliable and comparable data. These findings were presented in the Parliament ahead of the European elections.

Participation in cultural life, recreation, leisure and sport (art. 30)

Reply to the issues raised in paragraph 36 of the list of issues

125. Since the 2013 adoption of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, the EU has hastened to ratify it. The treaty was signed on behalf of the EU on 30 April 2014.[121] The ratification of the treaty is a priority for the EU. The Commission put forward a proposal for a Council Decision on the conclusion, on behalf of the EU, of the Marrakesh Treaty on 21 October 2014. The proposal is under discussion in Council and requires Parliament's consent. The Commission is considering the possibility to present a proposal to implement the Marrakesh Treaty in Union law. This would ensure not only the consistent implementation of the treaty in the EU, but will also facilitate the exchange of books in accessible formats with third countries.

[120] In absolute figures, the UK, France, Spain and Italy allocated the largest amount of their ESF budgets to priority axes targeting people with disabilities. In relative figures, Denmark, Ireland and Luxembourg planned to allocate almost all their budget to priority axes that incorporate people with disabilities. 22 Member States targeted people with disabilities through social inclusion actions and 17 included them as participants in mainstream activities.

[121] Council Decision 2014/221/EU.

C. Specific obligations

Statistics and data collection (art. 31)

Reply to the issues raised in paragraph 37 of the list of issues

126. In the EU, data collection is not done by Eurostat directly, but by statistical authorities in the Member States. Eurostat's role is to consolidate the data and ensure they are comparable, using harmonised methodologies. The content of any European surveys is discussed and agreed with national statistical authorities, including the possibility of adding further indicators. Four EU-wide surveys provide disability-related statistics:[122]

- EHSIS was a one-shot survey launched in 2012–2013. It is the most comprehensive source of data on the barriers to participation in different life areas for disabled persons. It faced some quality issues that led the Directors of social statistics to recommend its discontinuation.
- The European Health Interview Survey (EHIS) is currently running and should collect data every five years on the level of functioning and activity limitations in the population and provides other information on health status, health determinants and health care use.
- Since 2003, the Statistics on Income and Living Conditions (SILC) instrument collects data annually on long-standing activity limitation due to health problems (GALI variable). This variable enables meaningful indicators related to income, social inclusion and living conditions. Data obtained from some of the EU-SILC ad hoc modules are useful to describe the situation of disabled people.
- In 2002 and 2011, the LFS collected data on disabled people on the labour market via specific ad hoc modules. This is the main source available at EU level to assess the participation of disabled people in the labour market and in education and training.

127. Data available at EU level do not yet enable a regular monitoring of the situation of disabled people in Europe. The introduction of GALI as a common variable into all EU statistical surveys was proposed to the national statistical authorities that are part of the European Statistical System (see reply to question 28). In addition to EU-SILC and EHIS, this would concern the LFS, the Adult Education Survey, the Household Budget Survey and the Information and Communication Technology Survey. A decision should be taken in 2015.

International cooperation (art. 32)

Reply to the issues raised in paragraph 38 of the list of issues

128. Promoting the rights of persons with disabilities is an objective of EU international cooperation policies and programmes. The Regulations on the Development Cooperation Instrument, the European Instrument for Democracy and Human Rights (EIDHR)[123] and the

[122] Individual countries may organise additional data collections that are not harmonised. The data relate in general to the population living in private households (i.e. population living in institutions is usually not covered) and aged 15 or 16 and above, which means that no source provides data on disabled children.

[123] http://www.eidhr.eu/.

Instrument for Pre-accession Assistance for the period 2014–2020 include provisions for promoting the social inclusion and the rights of persons with disabilities. The 2014–2020 Regulation on common rules and procedures in financing the EU external action introduces accessibility requirements in the design and implementation of all programmes and projects. For humanitarian aid and disaster risk reduction, see replies to questions 15 and 17.

129. The EU is one of the world's largest donors supporting the inclusion and human rights of persons with disabilities. From 2010 to 2014, the EU funded over 250 disability-specific projects in over 87 partner countries, with a financial commitment of over 105 million EUR. These projects include advocating for the signature, ratification and implementation of the Convention and supporting social inclusion through education, health and employment.

130. In parallel, the EU seeks to improve mainstreaming of the concerns and needs of persons with disabilities in all its development programmes. The increased focus of development cooperation on fighting inequalities and on a human rights-based approach contributes to a better inclusion of disability concerns in EU development policies and to a better awareness of disability among EU staff.

131. The EU advocates for a post-2015 development framework that fights inequalities and social exclusion and that addresses without any discrimination the needs of the most disadvantaged and vulnerable, including persons with disabilities. The June 2014 Communication, A decent life for all: from vision to collective action, specifies the EU's approach to the post-2015 negotiations; disability was included in several priority areas, such as health, education, employment and accessible cities. To monitor progress in the sustainable development goals, the EU has advocated the inclusion of data disaggregated by disability.

132. In March 2015, the Commission held discussions with Member States on disability-inclusive development cooperation. The Commission is preparing a new project to support the socioeconomic inclusion, equality and non-discrimination of persons with disabilities in low and middle-income countries through more inclusive and accountable institutions and policies. This project will help increase the technical capacity to include persons with disabilities in mainstream development cooperation (indicative budget is 7 million EUR).

Implementation and monitoring (art. 33)

Reply to the issues raised in paragraph 39 of the list of issues

133. The members of the EU Framework offer guarantees of independence in the performance of their individual tasks. They operate under the legal guarantees of independence established by their individual mandates.

134. The independence of the Ombudsman in monitoring possible instances of maladministration in the EU institutions is guaranteed by the EU Treaties.[124] Under his mandate, the Ombudsman can investigate — in full independence — cases of maladministration involving the Commission in both its role as focal point and part of the EU Framework.

[124] According to Article 228(3) TFEU, "the Ombudsman shall be completely independent in the performance of his duties. In the performance of those duties, he shall neither seek nor take instructions from any Government, institution, body, office or entity. The Ombudsman may not, during his term of office, engage in any other occupation, whether gainful or not".

135. In accordance with the TFEU,[125] the Members of the Commission shall refrain from any action incompatible with their duties. Member States shall respect their independence and not seek to influence them in the performance of their tasks.

136. FRA's founding regulation states that "the Agency shall fulfil its tasks in complete independence",[126] and makes specific reference to the Paris Principles in relation to the composition of the Management Board.[127] FRA independence is ensured through the composition of its Management Board, consisting of independent persons appointed by each Member State[128], and the Director, who "shall perform his/her tasks independently".[129]

137. EDF is an independent civil society organisation that speaks for persons with disabilities in the EU Framework, as required by Article 33.3 of the Convention.

138. Members of the EU Framework have agreed operational rules to ensure independence, inclusiveness and transparency of its working methods. In particular, decisions are taken by consensus. Should a conflict of interest arise, the concerned member/s will abstain from taking part in the decision-making.

139. The Court of Justice is not formally part of the EU Framework. Nevertheless, when exercising its functions, it ensures respect for the fundamental rights enshrined in the Charter and the Convention in matters of EU competence and when the Member States are implementing EU law.

140. As regards allocation of financial and human resources, each member of the EU Framework receives funding from the EU budget. This supports the members' activities as part of the EU Framework. EDF, a body external to the EU institutional system, receives funding through an annual grant (under the Progress programme 2007–2013, and the REC programme 2014–2020). Since May 2013, the Commission has provided the secretariat of the EU Framework to support the chair and the other members in the preparation, conduct and follow-up of meetings and activities.

Reply to the issues raised in paragraph 40 of the list of issues

141. As mentioned under question 7, the Commission organises consultations whenever it is developing a new policy initiative or revises existing legislation, including on issues that relate to the implementation of the Convention. In 2009, a public consultation was held for the Disability Strategy. European Commissioners engage directly with citizens during the Citizen's Dialogues across the EU. All citizens in Member States can register and participate.

142. Active involvement of persons with disabilities and their representative organisations in the implementation, monitoring and evaluation of the Convention in the EU is ensured through EDF in the EU Framework. NGOs and representative organisations of people with disabilities participate in the Disability High-level Group and the Work Forum where the implementation of the Convention and monitoring are discussed.

[125] Article 245, TFEU.
[126] Council Regulation 168/2007, Article 16.
[127] Recital 20.
[128] Art. 12(1)(a) of the founding regulation.
[129] Art. 15(5).

D. Compliance of EU institutions with the Convention (as public administrations)

General obligations (art. 4)

Reply to the issues raised in paragraph 41 of the list of issues

143. Equality and diversity are integrated in the values, vision and management plan of the European Personnel Selection Office (EPSO). EPSO has a full-time equality and diversity officer and a team for providing reasonable accommodations for candidates with special needs since 2008. All candidates are informed in the same way about EU job opportunities; the EU Careers website is fully compliant at AA level with the web content accessibility guidelines. EPSO implemented an action plan where the accessibility of the candidates' experience has been improved (e.g. constantly monitoring and enhancing the accessibility of the website and tools, producing fully accessible formats to different types of assistive technology).

144. The Staff Regulations[130] on recruitment and employment conditions of staff working for the EU institutions stipulate a duty to provide reasonable accommodation: the provision of appropriate measures, where needed, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. If persons with a disability can perform the essential functions of the job when reasonable accommodation is made, they meet the condition for appointment in terms of being physically fit to perform their duties. The Commission's legal framework is explained in the Guidance on the duty to reasonable accommodation for people with disabilities issued in 2015.

145. The practical implementation of this provision in the General Secretariat of the Council ("the Council Secretariat") is governed by a Council Decision in force since 1 May 2004. It defines the process for granting reasonable accommodation and specifies that it can involve the rearrangement of duties or responsibilities, the provision of technical aids and/or other adjustments to the duties in question or to the working environment.

146. Throughout selection processes, EPSO provides reasonable accommodation to all candidates with special needs. The contractor responsible for the logistical organisation of EPSO's computer based tests worldwide complies with the accommodations required for special needs candidates as outlined by EPSO. In 2015–2016 EPSO's assessors will be trained on equality and diversity with a focus on disability. EPSO's in-house psychometrician has developed bespoke algorithms enabling EPSO to monitor the test items across 24 languages. Should any item be highlighted as having potential adverse impacts on candidates, it is examined and if necessary removed from the database. Before 2016, EPSO will be fully compliant with ISO's standards of psychological assessment,[131] ensuring that its selection procedures are fair and effective and that the tests meet qualitative and ethical obligations. In 2015, EPSO will promote targeted communication to attract higher numbers of applicants with disabilities. EPSO is testing a new reasonable accommodation procedure to better attract such candidates by better identifying their needs and blocking factors.

[130] Article 1(d) (4), http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1962R0031:20140101:EN:PDF.

[131] ISO 10667-1/2.

Equality and non-discrimination (art. 5)

Reply to the issues raised in paragraph 42 of the list of issues

147. The Parliament's internal rules implementing Article 1(d)(4) of the Staff Regulations define the procedure to establish the existence of disability (Article 2), entitlement to reasonable accommodation (Article 4) and the procedure to request reasonable accommodation measures (Article 5). For assessing reasonableness and proportionality of reasonable accommodation, Article 6 defines the criteria for the establishment of a disproportionate burden: in case the institution denies a request for reasonable accommodation on the grounds that it would impose a disproportionate burden on its resources, it will make a reasoned decision to that effect. Accommodation requested is considered to impose a disproportionate burden on the institution if the costs of providing it are such that they are more than the institution can reasonably be expected to bear. For that purpose, Article 6(3) outlines the following considerations:

- The impact of the accommodation on the ability of the person to perform the essential functions of the job
- The expected length of the employment
- The potential application of this reasonable accommodation in future cases
- The type of the accommodation and its cost relative to the Parliament's financial and other resources
- The health and safety needs of all staff and
- The impact of the accommodation on improving the general accessibility of the institution

Decisions taken under the Rules may be subject of a complaint under Article 90(2) of the Staff Regulations.

148. The Parliament has specific provisions (mainly deriving from the Staff Regulations) that benefit parents of children with disabilities.[132] Every three years since 2009, the Parliament organises meetings for staff members caring for a family member with a disability or long-term illness (carers). Carers are informed about relevant provisions, for example regarding financial aid, special leave and work-life balance. Local support facilities are outlined and carers can signal needs that have not yet been met.

149. Employees who are parents of children with disabilities are protected from discrimination under Article 1(d) of the Staff Regulations. This prohibits direct and indirect discrimination and discrimination by association.[133]

150. The Commission provides support for staff members who have dependents with disabilities,[134] including through special leave, financial support and counselling, in particular through the Commission's Social Welfare Unit:

- Special leave arrangements up to 15 days special leave per calendar year, longer period of parental leave (18 months instead of 12 months for a child under 12 years of age). If the disability is detected at birth, the maternity leave can be extended.

[132] Such measures include increased allowance during parental leave, extended parental leave, extended maternity leave, doubling of the dependent child allowance, possibility to receive supplementary financial aid, etc.

[133] Court of Justice ruling on Coleman case, OJ C223, 30.08.2008.

[134] In limited circumstances, these measures are also available for retired staff with a disabled dependent.

Parents of a disabled child who experience financial hardship can ask for a reduction of working time to 95% while receiving 100% salary. This is available up to the age of 14 years.

- Financial support: Article 76 of the Staff Regulations provides for a) the extension of the single child allowance for disabled children over 18 years old; and b) the possibility of a double child allowance for recognised disabled children for life. Both means can be extended with the possibility of Commission health insurance cover.
- The Commission provides co-financing of school costs for private schools for those children with learning difficulties who cannot be accommodated in the European School system; as well as for children with serious physical disabilities. The Commission co-finances independent but protected living arrangements for recognised adult disabled children of Commission staff and pensioners. Disabled staff members may get financial help to purchase equipment or make adaptations to equipment to facilitate their daily life (i.e. not work specific).

Social services: in the Commission's Social Welfare Unit[135] a half-time social worker is the first counselling contact point for Commission's active and retired staff with a dependent child with a (suspected) disability or learning difficulty. This social worker is the interlocutor between the administration and the Disability Support Group of the Commission founded in 2011. This self-help group has over 130 members, including staff from the Council, the EP, the EEAS, agencies and various EU delegations around the world.

151. Similar arrangements for flexible working schemes and financial support are in place for staff of the Court of Justice.

Accessibility, freedom of expression and opinion; access to information (arts. 9 and 21)

Reply to the issues raised in paragraph 43 of the list of issues

152. Websites in the europa.eu domain are managed in a decentralised way: each EU institution or body is responsible for the creation, management and update of their webpages.

153. Websites managed by the Commission include the top-level pages of europa.eu and the Commission site ec.europa.eu. The Web Content Accessibility Guidelines (WCAG) 2.0 compliance level AA is the Commission's objective for websites published from January 2010 on. Most newly created websites conform with it and the Commission continues to work to achieve conformity for other existing sites and multimedia content.[136] The Commission is building a new web presence to make its online communication more coherent, relevant and cost-effective. The digital transformation process gives priority to inclusiveness, equal access to information and functionalities. It aims to achieve, where possible, WCAG 2.0 level AAA. Its first elements are planned for 2016.

154. The Parliament, in particular through its Internet Steering Committee, is improving the accessibility of its external communication channels, for example through testing with web accessibility technology and screen readers. The Parliament envisaged contracting one

[135] Directorate General for Human Resources, unit C1.

[136] Detailed advice on how to achieve and maintain WCAG 2.0 AA is available on the Commission's style guide – the Information Providers Guide – available on ec.europa.eu/ipg. This is mainly addressed to the Commission's web managers.

staff member whose responsibility will be to screen accessibility for persons with visual impairments and make recommendations by mid-2016.

155. The Council and the European Council websites were redesigned in 2014. A new integrated website, launched in January 2015, is subject to continuous improvement to provide WCAG level AA access. Accessibility is checked fortnightly, and errors in development, design and content editing are flagged for correction. The aim is not only to comply with written guidelines, but also to address practical issues people face. User tests and an accessibility audit have been used to provide action points for improvement.

156. The administration of the Court of Justice expects to be able to further enhance the accessibility of its website in September 2015.

Education (art. 24)

Reply to the issues raised in paragraph 44 of the list of issues

157. In 2012, the Board of Governors of the European Schools adopted a new policy to provide educational support in European Schools.[137] This replaces the policy adopted in 2009. Different forms and levels of support are provided to ensure appropriate help for pupils experiencing difficulties and special educational needs, to allow them to develop and to be successfully included.

Work and employment (art. 27)

Reply to the issues raised in paragraph 45 of the list of issues

158. In the Commission's 2014 staff survey, 5.7% of respondents declared that their daily activities are affected by a disability (physical, mental or sensory). The Commission applies the principles of equal treatment and of non-discrimination in all its decisions. Applications from candidates with disabilities are welcomed. The Commission does not have a specific policy concerning the employment of people with disabilities, but it offers reasonable accommodation to employees and job applicants with disabilities when needs arise. The Staff Regulations authorises positive action in specific cases to make it easier for persons with disabilities to pursue a vocational activity or to prevent or compensate for disadvantages in their careers.

159. The Parliament does not collect data relating to disability and has not established statistics relating to disability (with the exception of general statistics on the positive action programmes aimed specifically at persons with disabilities, like traineeships and contract agents posts). Data on disability are considered sensitive personal information and subject to strict data protection rules. The Parliament's Equality and Diversity Unit conducted an anonymous and voluntary staff survey in 2014: 86 staff members, approx. 1% of the Parliament staff, considered to have a disability according to the definition of the Staff Regulations.[138] Upon the entry into force of the Internal Rules Implementing Article 1(d) (4) of the Staff Regulations, Parliament will consider establishing basic disability data in relation to reasonable accommodation provided.

160. In conformity with EU rules on protection of personal data, the Council Secretariat has collected information on a voluntary basis about the number of staff with a disability,

[137] 2012-05-D-14-en-7, http://www.eursc.org/getfile/1886/2.

[138] The target population of this survey was 8.695 persons, including officials, temporary agents, contractual agents, political group staff and accredited parliamentary assistants.

through an online survey in September 2013. 1.4% of respondents declared to have a disability according to the terms of the Convention. 1.6% of staff are parents of children with a declared and recognised disability. The Council Secretariat welcomes applications from all suitably qualified EU citizens regardless of their disability, and will interview any applicants on EPSO reserve lists who have a disability, if they meet the minimum requirements for the job. Reasonable accommodation is provided to enable persons with a disability to access employment, unless such measures would impose a disproportionate burden on the employer.

161. The Court of Justice does not keep statistics concerning members of staff with disabilities.

162. The EESC estimates that around 0.5% of its staff could be considered as having a disability. However, there is no formal registration of staff with a disability.[139]

[139] The Medical Service of the EESC retains confidential information on staff with a disability and this information is kept confidential unless specific action needs to be taken to finance reasonable accommodation.